

**NSLPP MEETING HELD ON 02/03/22****Attachments:**

1. Site Plan
2. Plans and Elevation
3. Landscaping Plans
4. Clause 4.6 Request for variation to the Building Height Development Standard

ADDRESS/WARD: 23-27 Wheatleigh Street, Crows Nest (W)**APPLICATION No:** DA205/21**PROPOSAL:** Demolition of the existing dwellings and all structures, removal of trees and the construction of a multi-dwelling housing development comprised of 10 dwellings over one level of basement parking.**PLANS REF:**

Plan No.	Dated	Issue	Title	Drawn by	Received
DA00	25 November 2021	5	Cover Sheet	Corben Architects	12 January 2022
DA01	25 November 2021	5	Site Analysis	Corben Architects	12 January 2022
DA02	25 November 2021	5	Site Plan	Corben Architects	12 January 2022
DA03	25 November 2021	5	Demolition Plan	Corben Architects	12 January 2022
DA04	25 November 2021	5	Level 1 Plan	Corben Architects	12 January 2022
DA05	25 November 2021	5	Level 2 Plan	Corben Architects	12 January 2022
DA06	25 November 2021	5	Level 3 Plan	Corben Architects	12 January 2022
DA07	25 November 2021	5	Level 4 Plan	Corben Architects	12 January 2022
DA08	25 November 2021	5	Roof Plan	Corben Architects	12 January 2022
DA09	25 November 2021	5	North and South Elevation	Corben Architects	12 January 2022
DA10	25 November 2021	5	East and West Elevation	Corben Architects	12 January 2022
DA11	25 November 2021	5	Sections 1&2	Corben Architects	12 January 2022
DA12	25 November 2021	5	Sections 1&2	Corben Architects	12 January 2022
DA28	25 November 2021	5	Cut and Fill Plan	Corben Architects	12 January 2022
DA29	25 November 2021	5	Cut and Fill Sections	Corben Architects	12 January 2022

OWNERS: Wheatleigh Street Pty Ltd
 B K Reinhardt
 M & M & G Minckler
 R Norrie and B Moore

APPLICANT: Salina Lama
 Wheatleigh Street Pty Ltd

AUTHOR: Kim Rothe, Senior Assessment Officer

DATE OF REPORT: 21 February 2022

DATE LODGED: 9 July 2021

AMENDED: 12 January 2022

SUBMISSIONS: 20 submissions from 11 separate submitters

RECOMMENDATION: Approval

EXECUTIVE SUMMARY

The subject development application is an amended proposal which seeks approval for the demolition of the existing dwelling on site and the construction of a two - three storey multi dwelling housing building containing ten dwellings over basement parking and ancillary landscaping.

The application is reported to the North Sydney Local Planning Panel (NSLPP) for determination due to the number of submissions received and the public interest in the proposed development.

Council's notification of the original proposal attracted **eleven (11) submissions** raising particular concerns about solar access, bulk and scale privacy, parking, streetscape, construction, landscaping and asbestos and stormwater issues associated with the application.

The applicant submitted amended plans on 12 January 2022 in response to Council's issues raised. The amended plans were re notified and attracted a further **nine (9) submission** raising similar concerns. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

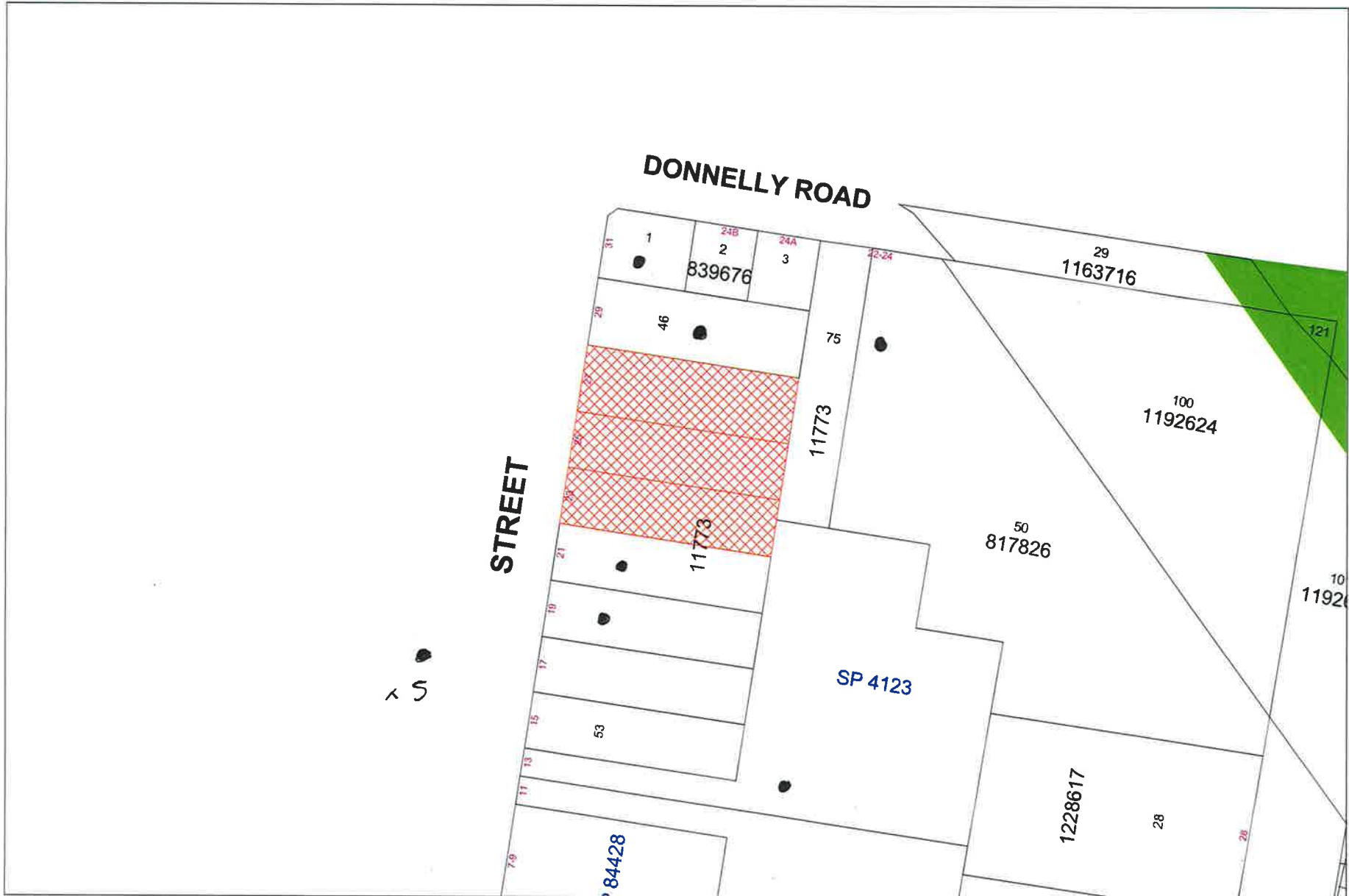
The proposal is considered acceptable in the circumstances as the development will improve housing choice and availability in the local area without having material adverse impacts on adjoining properties, particularly adjoining residential properties to the north or south. The new development will not adversely impact on the streetscape or significance of the Crows Nest Neighbourhood Character Area.

The bulk and scale of the amended proposal is generally consistent with the intended future character envisaged in Council's controls and existing surrounding buildings. The proposal is also considered to be an appropriate transitional built form of appropriate residential density.

All other issues identified in the report or raised in the submissions have been addressed or found to be either acceptable or able to be managed via the imposition of conditions of development consent.

This assessment, having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act, 1979 (as amended), this report has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. Following this assessment, the development application is supportable in the circumstances and is recommended for **approval** subject to the attached as recommended conditions of development.

LOCATION MAP



Property/Applicant ● Submitters - Properties Notified

DESCRIPTION OF PROPOSAL

The application is an amended proposal for demolition of all the existing dwellings (3) and ancillary structures, removal of trees and the construction of a multi-dwelling housing development containing 10 dwellings with a dwelling mix of 2 x 3 Bed and 8 x 4 bed units with one level of basement parking providing 18 resident parking spaces and 2 visitor spaces.

The proposed development is described in detail as follows:

Demolition and Site Preparation

The existing dwellings and site improvements are to be demolished.

Construction Works

Level 1 (Basement):

Level 1 is the basement which is accessed via a driveway from Wheatleigh Street near the southern boundary of the site. The basement provides a single garages for dwellings 6-10 and double garages for the remainder, giving a total of sixteen (16) residential spaces. Three visitor spaces are also provided. Each of the dwellings is provided with separate stair and lift access from the basement. Each dwelling has a storage area, with Dwellings 1, 7, 8, 9 and 10 having a separated storeroom.

Primary services areas are located under the driveway area.

Level 2 (Main ground level):

Level 2 is the ground floor and all 10 dwellings have living areas at this level. The front 5 dwellings are each provided via separate pedestrian entry paths from Wheatleigh Street. The rear five dwellings have access through a side pathways at the northern and southern sides of the front row of buildings, and access the central spine of the development, Each rear dwelling has a service courtyard off the central spine, providing for garbage storage and a larger, rear landscaped courtyard. A bin stand area is provided at the front of the site for temporary storage of bins for collection.

Level 3 (Main First floor):

Level 3 is the bedroom level of all dwellings All dwellings achieve four bedrooms (not all on this level) with the exception of dwelling 2 which has only three bedrooms but only two on this level. All rear row of dwellings has 4 bedrooms on this level.

Level 4:

Level 4 contains bedrooms and ensuites for dwellings 2-5 for the front row of dwellings only. This level is designed to make the dwelling take the appearance of a two-storey development with rooms in the roof.

External Works

Associated landscaping to private open spaces, entry courtyards and common circulation areas. Front fence works are also proposed.

Front fence is proposed to be Low open metal powder coated slat to a maximum height of 1.2 metres.

Total trees: 8 significant trees and minor vegetation is proposed to be removed to be replaced with the revised landscaping

External bin holding area is proposed adjacent to the southern basement driveway access. This is a temporary holding area only with the bins ordinarily being held in the central area in the private courtyards of each dwelling.



Figure 1: Perspective view of the proposal when viewed from Wheatleigh Street (looking north east).

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – R3 Medium Density Residential
- Item of Heritage - No
- In Vicinity of Item of Heritage – No
- Conservation Area - No

7.11 Contributions

Environmental Planning & Assessment Act 1979 (As amended)

SEPP BASIX

SEPP No. 55 - Contaminated Lands

SEPP (Vegetation In Non-Rural Areas) 2017

SREP (Sydney Harbour Catchment) 2005

Local Development

POLICY CONTROLS

DCP 2013
North Sydney Local Infrastructure Contributions Plan

DESCRIPTION OF LOCALITY

The site is located on the eastern side of Wheatleigh Street to the south of its intersection with Donnelly Road and is identified as Lots 47 - 49 in DP 11773 and known as 23-27 Wheatleigh Street. The site is rectangular in shape with a 39.015m frontage, side boundary dimensions of 45.72m and a site area of 1783.7m². The site slopes from the street to the rear with a fall of approximately 3.35m from the north-west corner to the south-east corner.

The site contains three detached dwelling houses of one and part one, part two storey construction. These date from the inter war period. Within the rear yard of the properties are two swimming pools and two outbuildings. The site contains 1 tree in the front yard of 23 Wheatleigh Street and 6 trees in the rear yard area of the three properties.

The site is burdened by a right-of-way adjoining approximately 2/3 of the southern boundary, with a variable width of up to approximately 900mm. The right-of-way benefits 21 Wheatleigh Street an otherwise land locked site. The site is also benefited by a right-of-way over 21 Wheatleigh Street running the same distance along its northern boundary and having a variable width of up to approximately 1.8m. The combined rights-of-way provide a shared vehicular access to both properties between the existing dwelling houses on 21 and 23 Wheatleigh Street.



Figure 2: GIS cadastre of the site

(sites indicated)



Figure 3: Aerial of the site (sites indicated)

The site and adjoining properties to the north, south and east are zoned R3 Medium Density Residential under NSLEP 2013. The centreline of Wheatleigh Street forms the municipal boundary and as such the dwelling houses on the opposite site of Wheatleigh Street are within Willoughby Municipality.

The locality contains a mixture of residential development, with properties on the opposite site of Wheatleigh Street characterised as detached one and two storey dwelling houses. Properties to the rear of the site contain multi-dwelling housing and residential flat buildings. Properties to the north of the site include a detached dwelling house and multi-dwelling housing. Properties to the south of the site contain detached dwelling houses, dual occupancies, multi-dwelling housing and a tennis centre. The mixture of residential typology and the location of the tennis centre, which is a battle-axe allotment.

Immediately adjoining the site to the north is 29 Wheatleigh Street, a 668.8m² property occupied by a single storey detached dwelling house. Deferred Commencement Development Consent No. 17/2020 was granted on 30 July 2020 for demolition of the existing dwelling on 29 Wheatleigh Street and construction of a multi-dwelling housing development. The development at 29 Wheatleigh Street has yet to be constructed. Adjoining 29 Wheatleigh Street, further to the north, at 31 Wheatleigh Street and 24A and 24B Donnelly Road, are three dwellings on small allotments that appear to have been developed together and subdivided. The dwellings on 24A and 24B Donnelly Road are both largely single storey and have additional accommodation in the roof space. The dwelling 31 Wheatleigh Street is a part single and part two storey dwelling

RELEVANT HISTORY

Surrounding Sites

Deferred Commencement Development Consent No. 17/2020 was granted on 30 July 2020 for demolition of the existing dwelling on 29 Wheatleigh Street and construction of a multi-dwelling housing development. The development at 29 Wheatleigh Street has yet to be constructed.

Pre-lodgement Meeting

Prior to lodgement of the development application and during the design phase a pre-DA meeting was held with Council with a meeting occurring on the 22 April 2021. The plans submitted to Council for consideration in the pre-DA meeting contained a design similar to that currently proposed, but contained 11 dwellings.

The pre-lodgement minutes noted particular concerns with solar access, privacy, setback, density, built form character, parking, site coverage and landscaping area

The subject application responded to the concerns raised primarily by the reduction in dwellings to 10 and improvements to setting, setbacks and general bulk.

Subject Application

30 July 2021	Subject application lodged
30 July 2021 – 13 August 2021	Application notified to surrounding sites and Holtermann Precinct. Notification also included notification of the development to Willoughby Council for the properties across the road.
10 August 2021	Proposal reviewed by North Sydney Design Excellence Panel.
20 October 2021	Letter sent to applicant advising of the unsuitability of the current proposal. Issues raised include: <ul style="list-style-type: none">• Concerns of the Design Excellence Panel review of the application including<ul style="list-style-type: none">○ Local context and character○ Scale and urban design○ Sustainability○ Landscaping integration○ Configuration and amenity○ Architectural expression and materials○ Dwelling mix• Concerns raised regarding Council's DCP including:<ul style="list-style-type: none">○ Housing choice○ Solar access○ Visual privacy○ Context○ Setbacks○ Site Coverage and landscaping area○ Form and scale○ Excavation

- Landscaping Referral matters and lack of support for loss of trees on site and suitability of replacement landscaping
- Issues associated with the Traffic referral

5 December 2021

Initial Amended Plans uploaded to Planning Portal

12 January 2022

Amended plans and information submitted to Council

28 January 2022 - 11 February 2022

Re notification of amended proposal

REFERRALS

Building

The proposal is not required to be assessed in against the requirements of the Building Code of Australia / National Construction Code at development application stage. However, conditions prescribed under the Act require the construction to comply with the requirements of the BCA/NCC. In the event that significant modifications to the design are necessary to facilitate the release of a Construction Certificate, a separate application under S4.55 may be necessary.

Engineering/Stormwater Drainage

The application including the amended proposal was referred to Council's Development Engineer who raised no objection to the development, subject to conditions. Any relevant nonstandard requirements are included in the recommendation of the report as recommended conditions.

Design Excellence Panel

Development Application DA205/21 was considered by Council's Design Excellence Panel on 10 August 2021 and that the following commentary was provided as follows: -

"Principle 1: Context and local character

Wheatleigh Street comprises almost entirely traditional 20th century suburban houses, with brick walls & red tile roofs. A variety of roof types are featured including open gable, Dutch gable, hip and dormer windows. Houses commonly have entry porches and verandahs. Both adjacent sites are presently of this character, although on the site to the north a new townhouse development has been approved and the existing cottage will be demolished. To the rear is a two-storey unit building, also with red brick walls and tile roof.

There is one large tree at the south-west corner of the site, and six large trees adjacent to the rear common boundary.

Wheatleigh Street is zoned R3-medium density, so it appears very likely that in coming years much if not all of the existing housing will be demolished to make way for higher density development. It is nevertheless highly desirable that the attractive aspects of its existing character are maintained, and that new and existing buildings are compatible. This issue goes to elements such as height, form, setbacks, materials and finishes.

Principle 2: Built form, scale and public domain/ urban design response

Three houses on the subject site are to be demolished and replaced by ten town-house 'terrace-type' units (multi-dwelling housing), one row of 5 addressing the street, the other to the rear. The scale is broadly consistent with the character of the street, and could be accepted in principle, given its compliance with critical controls in relation to height, setbacks etc. However there a number of concerns which need to be addressed:

- *The built form is overly repetitive and does not provide adequate articulation and legibility of individual dwellings particularly as seen from Wheatleigh Street. See further comments below under Principle 9.*
- *The building elevations to the side boundaries do not provide sufficient articulation and material variety particularly given the height of the development. Opportunities for bay windows with controlled views and privacy could be explored.*
- *The floor-to-floor heights at the two upper levels in the western block are shown as 2.714m. & 2.752m. which are inadequate to allow for a minimum of 2.7m ceiling heights, which should be required.*
- *There are large storage spaces on the eastern side of the basement, which if reduced might allow for some lowering of the eastern block, thus reducing overshadowing impacts on the neighbouring property.*
- *This could also provide opportunity for developing a pitched roof on this block, more consistent with the western block, whilst remaining within the height control. The architect advised that the skillion roof slopes towards Westleigh Street, so that rainwater can discharge in that direction, but there would still be options for this to be achieved with other roof forms.*
- *Some additional set-back of the south-eastern corner of the eastern block would ameliorate overshadowing of rear of neighbouring 21 Wheatleigh Street.*
- *In relation to urban design, the stark white and dark grey external colours are unsympathetic to the context: the images and schedule of finishes on drawing DA09 indicate 'dark roof and cladding' and dark painted window boxes and metal fences*
- *Also see comments below regarding the central spaces under "Landscape"*

Principle 3: Density

Floor space ratio is not included in Council's planning controls. While the basic form may have the potential to achieve an acceptable density, issues raised under each of the Principles, compliance with height, site coverage and other controls plus the achievement of a high level of amenity for residents and neighbours must all be resolved.

Principle 4: Sustainability, building performance and adaptability

The following matters should be addressed:-

- *Daylight and ventilation could readily be provided to the basement with openings to the rear and centre of the site*
- *The internal bathrooms on the top floor of the eastern block should also have rooflights/vents*
- *Although environmental performance targets should not be difficult to achieve, they would be simplified if the proposed very dark external finishes were removed*
- *Sun-shading of the large areas of west and east-facing glazing should be provided. The Panel was not convinced that the adjustable screening proposed on the large bedroom windows was a desirable option*

In addition, the applicant is urged to include environmentally responsible measures, particularly solar energy collection and rainwater recycling for irrigation of gardens.

Principle 5: Landscape Integration

Landscape plans presented at the meeting, had not been previously available to the Panel. Landscape shown on architectural plans was inconsistent with landscape plans. It had been considered that the large trees to the rear of the site should be retained and integrated into the landscape, and this was in fact as proposed by the landscape architect. Questions were raised about the impact of the proposed structures on the ongoing health of the trees. The panel suggests a detailed Arborist report including tree protection measures should be submitted for approval by the Councils tree officer prior to DA approval.

The following issues also require resolution:

- *Removal of the mature tree in the front yard of 22 Wheatleigh Street, was questioned, but subject to implementation of the new planting as proposed, could be accepted.*
- *Deep soil areas should allow for substantial endemic tree planting. Consider alternative larger trees to front yards.*
- *The proposal should respect and better integrated with existing levels, particularly at the interface with the properties to the rear and to the south.*
- *Within the central space between the two blocks the fences and waste storage areas compromise the character and amenity of this area. Strategic planting and positioning of landscape devices to manage privacy should be explored. Fences as privacy barriers dividing up the central space are discouraged. The proponent is encouraged to consider using planting to demarcate boundaries rather than metal fencing.*
- *Waste bins should be relocated to the basement, where they are easily accessed by residents via both lifts and stairs.*
- *Ensure soil depths are sufficient to meet small tree planting as per ADG 4P Planting on structures.*

Principle 6: Building configuration, planning, and amenity

Amenity for residents of the town houses should generally be of good quality. The diagrams indicate acceptable solar access, and all units are cross-ventilated. Each of the units has a lift, which is a generous provision. The following detailed matters should be addressed:-

- *Entry through the front gates to the yards and front doors of all five townhouses facing Wheatleigh Street requires descending five steps, so that a pedestrian with a mobility issue or needing a wheelchair would have to go down the vehicle ramp and enter via one of the basement lifts. It should not be difficult to replace all of these steps with gentle ramps integrated into the landscape of the courtyards.*
- *The main entry from Wheatleigh Street to the central space and rear townhouses should be reconfigured to define a legible and welcoming entry. Currently the proposed presents as a secondary entry, lacks presence and is compromised by waste handling area, hydrant booster and utilities.*
- *The central space should maintain a minimum 7m separation between the two rows of town houses to enable substantial planting, visual and acoustic privacy between entry, kitchen and bedrooms fronting this space.*
- *Bedrooms at the first floor level in both blocks have very large windows exposed to sunlight and also resulting in privacy concerns. They need considerable redesign and it is suggested that this could be by way of providing small projecting balconies with solid balustrades, possibly supplemented by adjustable screens on the balcony facades.*
- *Adequacy of vehicle turning and exiting from the basement garage needs to be demonstrated particularly to townhouse 6*
- *In any planning reconfiguration, setbacks to the principle façade at the street frontage of 7m and 8.5m at rear should be maintained to enable planting and appropriate alignments relating to neighbouring buildings.*

Principle 7: Safety and security

Satisfactory

Principle 8: Housing diversity and social interaction (residential and mixed-use proposals only)

There is no mix of apartment sizes, all 10 units, each with four bedrooms. While the 4 bedroom apartments offer varied uses accommodating grandchildren, visiting relatives etc. the possibility of a small number of 2 or 3 bedroom apartments or dual key arrangements to provide housing diversity should be considered in any redesign.

Principle 9: Architectural expression and materiality

The basic built form configuration is acceptable, but a range of detailed matters have to be addressed for the architectural character to be supportable:-

- *As noted under Principle 2 above in relation to urban design, the external colours and materials are not sympathetic to the established character of the street. The contrasting white and dark finishes have no relationship to the warmth of the brick and tile external walls and roofs of the long established houses which characterize the street.. It should be noted that the recently approved development on the adjacent site at 29 Wheatleigh Street raises similar concerns, a rendering of this design being included in the S.E.E. for that application (p.5). That approval is unfortunate but does not change the recommendation of the Panel.*
- *Issues in relation to amenity were raised above under 'Principle 6' - Bedrooms, regarding the large windows facing the street. A finer grain expression should be explored with introduction of screens, balustrade as suggested 6 above.*
- *Additional legibility of the individual dwellings should be promoted through the use of a richer palette of materials, screens and other articulation. This could include the use of a variety of sun shading solutions to west facing glass, balustrade types and configurations and dormer window details. The overall streetscape should also be treated to provide a greater variety of address points and characters. This could be achieved through various boundary fencing, planter box, gate and other details.*
- *Other issues relevant to architectural expression needing to be addressed are raised above under Principle 2, relating to the end walls and to the roof of the rear block.*

Amendments Required

All the issues raised above should be addressed, in particular those raised under Built Form and Architectural Expression

Summary Recommendation

Although the basic planning and built form configuration is accepted, in view of the significant detailed issues raised by this review, the application as submitted is not supported. An amended proposal should be prepared and referred back to the Panel for review.

Planning comments: The applicant submitted the following comments in relation to the amended plans to respond to a number of the concerns as raised by the Panel as follows: -

- *The design has been amended to delete the upper-level bedroom of TH 1 and provide a different materiality and colour to the two end dwelling elements which significantly reduces the visual bulk as viewed from the street, introduces additional articulation and reduces repetition.*
- *The side elevations have been amended to introduce a change in material for each level of the rear row of dwellings and provide a bay window. The front row of dwellings have had the addition of windows to the stairs of TH 1, with privacy louvres to ensure no detrimental privacy impact. The changes provide an appropriate level of articulation to the side elevations.*

- *The storage areas at the rear have been substantially reduced in size, however as the living area new projects past the rear of the storage space (due to the reduction in depth) this does not result in a lowering of the level of the rear building.*
- *In the absence of the ability to reduce the ground level of the rear dwellings, due to the driveway ramp already being at a maximum gradient and the site sloping to the rear would result in greater shadow impact upon 21 Wheatleigh Street if the roof pitch was changed. It was therefore considered to be inappropriate to change the roof pitch. It is noted that this was an aesthetic concern of the Panel and the two different roof pitches will not be visible from the public domain.*
- *This portion of the development is already below the maximum height control and it has been setback an additional 317mm beyond the side setback required for this element to reduce shadow impact. Further, the pitch of the rear roof has been lowered to 10, the lowest possible.*
- *The materials and colour palette have been amended to introduce a dark face-brick and grey render.*
- *The plans have been amended to include the requested skylights on the roof for the bathrooms.*

As the amendments addressed the concerns raised by the Design Excellence Panel. Referral back to the Panel was not considered to be necessary in the circumstances. These matters are discussed in greater detail in the assessment report below.

Landscaping

The application was referred to Council's Landscaping Officer due to the plans noting a significant number of trees to be removed. The following comments were made:

"This proposal cannot be supported in its current form:

- *3 x stormwater options have been proposed, all of which require the removal of mature neighbouring trees (in the case of option 2, over 25 trees). No evidence that owners permission for this removal has been sought has been provided to council, and without such supporting evidence, the proposal cannot be further considered. Of the 3 x options proposed, Option 3 is likely to cause the least impact to neighbouring trees, but even so, the arborist report states that further detail as to exact location is required, in order that further assessment of negative impact to additional neighbouring trees can be made. Such further detail would be required by council before further assessment is made if this were the option proposed.*

Discussion with Development Engineering suggests that council may consider further SW options negating the need for any such impact to neighbouring trees, and a revised proposal incorporating such a scheme should be considered. Such a scheme is likely to include a number of systems for collection of water from various locations and retention and dispersal via various means. Please see engineering comments when complete.

- *A noncompliance with both landscaped area and unbuilt upon area is noted.*

- *The proposal requires the removal of all existing site trees and existing street trees planted in front of the site (although there do appear to be some inconsistencies between various drawings and arb report with regards street trees). This approach to development is not one generally supported by council, and is contrary to advice provided at the Pre-Lodgement meeting – see below:*

Pre-Lodgement Minutes dated 22/4/21

“Landscaping

A Landscape Plan or survey was not submitted with the pre-lodgement proposal. Drawings would indicate removal of several large site trees, possible impact to neighbouring trees particularly along eastern boundary. Impact to 2 x street trees. Consideration should be given to retaining and protecting existing canopy trees where possible, and further planting of replacement canopy trees. Detailed landscape plan showing species, number, and pot size, survey, and detailed arborist report will required.”

- *T1 Ulmus parvifolia shown in on survey as 10x10m, and estimated by LDO on recent site visit to be 12x12, is only reported in the arb report at 5m high. This tree is prominently located in the front setback of 23 Wheatleigh St, contributing to the streetscape and could offer valuable screening/ privacy and softening of built form for a future proposal if retained. The current proposal would not allow for its retention due to proposed location of driveway.*
- *T3 Schinus molle, a street tree planted in the council verge in front of 25 Wheatleigh St, estimated by LDO on recent site visit to be 6x7m, but only reported in the arb report at 3m high does not require removal despite being shown for removal. Should a suitably amended proposal be submitted, this tree should be retained and protected in accordance with AS4970, have 1.8m high steel mesh tree protection fencing installed, and a tree bond of \$7,000 applied.*
- *T5 Lagerstroemia indica, a street tree planted in the council verge in front of 27 Wheatleigh St, estimated by LDO on recent site visit to be 7x10m, but only reported in the arb report at 3m high does not require removal despite being shown for removal. Should a suitably amended proposal be submitted, this tree should be retained and protected in accordance with AS4970, have 1.8m high steel mesh tree protection fencing installed, and a tree bond of \$10,000 applied.*
- *The removal of T2 Grevillea robusta and T4 Jacaranda mimosifolia (12x9) would not be objected to subject to suitable replacement planting, due to the high percentage of epicormic growth due to poor past pruning practices.*
- *Once a revised and acceptable stormwater plan has been prepared, and any further amendments made to the proposal, a new arborist report that clearly and concisely shows the impact to all site and neighbouring trees, most notably all those along the western boundaries of the adjoining properties to the east of the subject site shall be required. The current report is considered to cloud any potential impact with the inclusion of various options. Furthermore the final arborist report shall have assessed all other sites if required, and or completely assessed the impact of proposed works – a report suggesting that further assessment is required will not be deemed acceptable. All neighbouring trees shall be retained and protected in accordance with AS4970.*
- *The proposed concept landscape plan in itself is not considered to raise any major issues (subject to resolution of the above).*

Planning comments: The applicant submitted the following comments in relation to the amended plans to respond to a number of the concerns as raised by the Landscaping Officer as follows: -

- *The stormwater options were provided for consideration by Council's engineer to indicate that Option 3 was the preferred option in order to protect trees on the adjoining properties. Option 3 involves provision of a swale at/very near to existing ground levels along the back of the property where the trees are located on the adjoining property, entering a piped system at the south-eastern corner where the pipes would be outside the TPZ of the trees*
- *The amended plans have significantly increased the provision of landscaped area, providing 525.1m², a variation of 2.3m² or 0.4% from the minimum 527.4m² required. In addition to this deep soil landscaping, an additional 60.75m² of landscaping is provided centrally over the parking slab.*
- *An attempt was made to amend the driveway to allow retention of Tree 1, however the retention of the tree would require the relocation of the driveway which would detrimentally impact the development. The landscape plans provide a significant increase in trees on the site compared to those existing.*
- *Trees T3 and T5 are shown on the architectural and landscape plans as being retained.*
- *An amended arborist report has been provided.*

Planning Comments: Whilst the loss of trees is not to encouraged, the design as amended has endeavoured to preserve significant vegetation where possible including measures to ensure trees on adjoining sites are not adversely impacted.

New landscaping will in time replace that lost with new appropriate plantings that are substantial and which would enable a suitable landscape context for the development whilst ensuring appropriate amenity for residents. On balance the proposal can be supported given that an extensive suite of replacement plantings is proposed which will replace the lost canopy cover. It is noted, however, that the revised landscaping suite is quite a cluttered scheme and should be refined to rationalise planting and incorporate further larger canopy tree plantings particularly down the eastern and southern elevation. The revised plan should also be reviewed and endorsed by Council's Landscaping before issue of a Construction Certificate. The following requirements of the Landscaped Officers shall also be incorporated into the amended landscaping details.

- 1 x updated arborist report clearly assessing all and only the trees impacted by proposed works (including street trees in Donnelly Street should there be infrastructure works required in Donnelly street to achieve stormwater disposal. The inclusion of assessments for trees no longer standing, or no longer impacted by amended works should also be revised. The amended report shall included a plan with numbered trees and TPZ & SRZ marked, and TPMP for currently proposed works.
- Reference is made to existing levels being retained within the rear setback but a 1500mm wide planter would appear to be built along the rear boundary. Confirmation of levels is required (none appear to be shown on drawings) and it is likely that this planter may need to be extended to 2000mm minimum width to accommodate tree planting within.
- A qualified (AQ5) arborist shall be appointed to oversee all works within the TPZ of any protected tree
- All trees to be retained shall be protected in accordance with AS4970.
- Sensitive construction techniques including hand excavation, pier and beam, flexible location of piers/footings shall be carried out within the TPZ of any protected tree, no roots greater than 40mm shall be cut

- The TPMP detailed in the final (yet to be approved) arborist report shall be strictly adhered to (subject to approval)

A condition is included in the recommendation in this regard.

Traffic Engineer

Council's Traffic & Transport Operations section has considered the development proposal as originally submitted including the submitted traffic report, and advised as follows:

"Traffic Generation

The proposed development will not have unacceptable traffic implications in terms of road network capacity.

Car Parking – Supply

The traffic report does not mention how many parking spaces the proposed development will provide. However, based on the car park drawing there appears to be 20 car parking spaces in the form of double garage or tandem arrangement with 3 visitor parking spaces.

Based on the Council's DCP 2013, the following maximum parking provisions are required:

<i>Type of development</i>	<i>Minimum Bicycle Parking Rates</i>		<i>No of Dwellings</i>	<i>Maximum Allowable Spaces</i>	<i>Proposed Parking Provision</i>
<i>Multi Dwelling Housing</i>	<i>3 or more bedrooms</i>	<i>1.5 spaces/dwelling</i>	<i>10</i>	<i>15</i>	<i>20</i>
	<i>Visitor</i>	<i>0.25 space/dwelling (min of 1 space)</i>	<i>10</i>	<i>2.5 = 3 (roundup)</i>	<i>3</i>

The proposed 20 car parking spaces exceed the maximum parking rate by 5.

Car Wash Bay

The NSDCP requires a car wash bay to be provided within the visitor parking area for residential developments containing 4 or more dwellings. The traffic report does not mention about any car wash bay being provided.

Cycling Facilities

The NSDCP specifies that all new development is to provide on-site secure bicycle parking facilities.

The Minimum Bicycle Parking Rates are shown in the table below:

Type of development	Rate		No of Dwellings	Minimum Spaces Required	Proposed Bicycle parking spaces
	Occupants	Visitor			
<i>Residential</i>	<i>1/1 dwelling</i>	<i>1/10 dwelling</i>	<i>10</i>	<i>11</i>	<i>Unknown</i>

The traffic report does not mention about any bicycle parking facilities. However, it can be seen on the car park drawing that a storage area has been provided for each dwelling.

The NSDCP specifies that where an apartment in a residential building has a basement storage area on title that is large enough to accommodate a bike and being no smaller than a Security Level A bike locker, then additional bike parking for that apartment is not required.

Vehicular Access

The swept path provided on page 1 of the Appendix A shows that the exiting vehicle will drive over the pedestrian walkway between the driveway ramp and the bin hardstand area. The swept path needs to be rectified.

Recommendation

It is recommended that the proposed development be refused until the applicant addresses the following:

- 1. The proposed parking spaces for residents be reduced to 15 to meet the NSDCP.*
- 2. A car wash bay be provided as per NSDCP.*
- 3. 10 x Security Level A bicycle parking facilities for occupants of residential dwellings and 1 Security Level C for visitor be provided in accordance with NSDCP.*
- 4. Swept path be rectified to demonstrate that vehicle ingress and egress are within the driveway ramp.*

Conclusion

Should Council approve this development it is recommended that the following conditions be imposed:

- 1. That all aspects of the carpark comply with the Australian Standard AS2890.1 Off-Street Parking.*
- 2. That all aspects of parking spaces for people with disabilities comply with the Australian Standard AS 2890.6.*
- 3. That all aspects of the bicycle parking and storage facilities comply with the Australian Standard AS2890.3 and North Sydney Council DCP.*
- 4. That the driveway to the site must be designed such that there are minimum sight lines for pedestrian safety as per Figure 3.3 of AS 2890.1.*

5. *That a Demolition and Construction Management Program be prepared and submitted to Council for consideration by the North Sydney Traffic Committee and approval by Council prior to the issue of a Construction Certificate. Any use of Council property shall require appropriate separate permits/ approvals.*
6. *That any redundant driveways be reinstated with kerb and gutter upon the completion of the development.*
7. *That the developer pays to upgrade the lighting levels on Wheatleigh Street adjacent to the site, to the appropriate Australian Standard and to the satisfaction of Council."*

Planning Comment: The applicant has submitted an amended design to provide for Changes to proposed parking and storage as follows:

- A maximum of 16 residential parking spaces and three visitor spaces (including vehicle wash bay)
- Combined car wash bay / visitor space
- Designate bicycle spaces in each garage
- Update the traffic report to demonstrate adequate manoeuvring area

The amendments will be discussed further as relevant throughout the report however, as the amendments have generally addressed the raised concerns, it was not nominated to refer the matter back to the traffic engineers for further comment and any outstanding matters can be address by recommended conditions of development consent.

DEVELOPMENT ENGINEER

Council's Development Engineer has considered the proposal and provided the following comments:

The proposal has been assessed in relation to:

- *Traffic Management*
- *Stormwater*
- *Parking and Access*
- *Sediment and Erosion Control measures*
- *Excavation and Retaining Walls*

In assessing the application, the following DCPs sections, Council's Codes and Infrastructure Guidelines are considered relevant to the proposed development:

- *Section 10 Car Parking and Transport*
- *Section 12 Access*
- *Section 17 Erosion and Sediment Control*
- *Section 18 Stormwater Drainage*
- *Section 20 Public Infrastructure*
- *North Sydney Council Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works 2016/2017*
- *North Sydney Council Public Domain Style Manual and Design Codes*
- *North Sydney LGA Flood Study Final Report February 2017*

Documents Reviewed:

- *Architectural drawings prepared by Corben Architects, dated 30 June 2021,*
- *Stormwater design drawings prepared by Indesco, dated July 2021,*
- *Car Park Design Review prepared by Amber Organisation, dated 2 July 2021,*
- *Geotechnical and Salinity Investigation Report prepared by Geotechnique, dated 30 June 2021,*
- *Detail & Level Survey prepared by Veris, dated 27 February 2021,*
- *SEE prepared by Kerry Gordon Planning, dated 2 July 2021.*

Comments:

In reference to the proposed development, the following matters have been considered.

Traffic Management:

*Proposed development requires CTMP.
Appropriate conditions shall be imposed in this regard.*

Stormwater:

Construction of new kerb inlet pits and new pipeline from the property frontage in Wheatleigh St to connect to the existing stormwater drainage system in of Donnelly Road adjacent to 24A Donnelly St.

Appropriate conditions shall be imposed in this regard.

Parking and Access:

Proposed new driveway crossing. Redundant driveways to be removed and reinstated as kerb/gutter. The existing driveway servicing 21 Wheatleigh St to remain and easement for "Right of Carriageway" must remain in place.

Appropriate conditions shall be imposed in this regard.

Sediment and Erosion controls

Appropriate conditions shall be imposed in this regard.

Excavation and Retaining Walls

*Proposal for one (1) level of excavation for basement parking.
Appropriate conditions shall be imposed in this regard.*

Recommendation

The application has been assessed and it is recommended that the following conditions to be included in the Development Consent.

Planning Comment: The comments from Council's Development Engineer have been noted and recommended conditions are incorporated into the attached recommended conditions.

Sydney Water

The application was referred to Sydney Water who raised no fundamental objection to the proposal and recommended requirements which can be conditioned should the proposal be recommended for approval.

Ausgrid

A copy of the proposal was sent to Ausgrid who commented that the proposal can comply with Statutory requirements from Ausgrids Electrical mains and accordingly have no objection to the development as proposed subject to recommended conditions to be included in any consent.

SUBMISSIONS

Council notified adjoining properties and the **Holtermann Precinct** of the proposed development seeking comment between **30 July and 13 August 2021**. Council received **eleven (11)** submissions raising concern with the development. The matters raised in the submissions are listed below:

The issues raised in the submissions are summarized below and addressed later in this report. The original submissions may be viewed by way of DA tracking on Council's website https://www.northsydney.nsw.gov.au/Building_Development/Current_DAs and are available for review by NSLPP members.

Basis of Submissions

- *Raise concern over the height of the proposed building.*
- *Solar impact will have a devastating impact on my premises*
- *Building is too large and out of character for the site.*
- *Concerned over long term impacts*
- *Cannot afford to relocate anywhere else*
- *Errors and inconsistencies in the plans*
- *Density of the development is excessive.*
- *Building will be out of character with the locality*
- *Third storey elements to Wheatleigh street will not be characteristic of the established character of the area.*
- *Basement parking is not characteristic of the area*
- *Parking arrangements insufficient*
- *Increase in traffic will pose a safety risk to pedestrians.*
- *Loss of on street parking will further exacerbate issue with existing Tennis Centre use*
- *The development will considerably reduce natural sunlight and airflow*
- *The dwellings will overlook and be overlooked by adjoining dwellings and development*
- *Concern of loss of on street parking.*
- *New Replacement landscaping is not adequate*
- *Loss of trees not acceptable.*
- *Raise concern with noise and traffic from construction.*
- *Size of the development appears excessive*
- *Concerned over privacy and overshadowing from the development.*

The amended plans and details were received by Council on **12 January 2022**. This amended scheme was notified for a further **14-day period** between 28 January – 11 February 2022, in accordance with section A4 of the DCP. The notification of amended DA resulted in **nine (9) new submissions**; A substantial number of previous submitters resubmitted maintained their original concerns. New key issues are summarised as follows:

Basis of Submissions

- *Object to the amended plan.*
- *Improved compliance has not been demonstrated*
- *Still and overdevelopment of the site*
- *Height and density concerns maintained*
- *Context and character concerns maintained*
- *Traffic/parking concerns maintained*
- *Landscaping/ loss of trees concerns maintained*
- *Construction concerns maintained including impact to working from home arrangements*
- *Concerns raised regarding provision of adequate stormwater and sewer age disposal*

CONSIDERATION

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

The application has been assessed against the relevant State Level and numeric controls in NSLEP 2013 and quality controls DCP 2013 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

STATE ENVIRONMENTAL PLANNING POLICY NO. 55

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site. A Phase 1 reports which determined that the site is suitable for residential use. Therefore, no further investigation is required.

The provisions of SEPP 55 require Council to consider the likelihood that the site has previously been contaminated and to address the methods necessary to remediate the site.

Given the residential history of the site, that the site does not appear to have been subject to large amounts of fill, and that there is no know source of contamination, there is unlikely to be any issues of soil contamination that would require remediation. Concerns relating to the use of asbestos and lead based paint/materials can be managed via the imposition of standard conditions of development consent. Standard precautionary conditions can be imposed upon any approval notice.

STATE ENVIRONMENTAL PLANNING POLICY (BASIX)

In accordance with the BASIX SEPP all new multi dwelling housing in NSW is required to meet a designated target for energy and water reduction. A BASIX Certificate is submitted with the application which indicates that the proposal meets the required reduction targets.

STATE ENVIRONMENTAL PLANNING POLICY (VEGETATION IN NON-RURAL AREAS) 2017

The provisions of SEPP (Vegetation) require that a permit or development consent be obtained for the removal of specified trees and vegetation.

The application seeks approval for the removal of trees as previously indicated in this report and as detailed in the accompanying Arborist Report. The trees are required to be removed either due to their location within the footprint of the development or as a result of impacts from the development.

The proposal to remove the trees is mitigated by the significant number of trees to be planted as shown in the landscape plan.

SYDNEY REGIONAL ENVIRONMENTAL PLAN (SYDNEY HARBOUR CATCHMENT)

The SEPP applies to the entire North Sydney Council area identified on the Sydney Harbour Catchment Map. The site falls within the Sydney Harbour Catchment Boundary Area of the SEPP, however the site and surrounding area are not zoned under the SEPP.

The site is well separated from the foreshore. The proposed new dwellings are unlikely be visible or affect the character of the Harbour. The proposed works are consistent with the existing building form and will not alter the existing street or surrounding character.

The development will not detrimentally impact the character, scenic quality, or ecology and health of, or access or views to, any foreshores and waterways. The application is consistent with the provisions of the SEPP.

LOW RISE HOUSING DIVERSITY DESIGN GUIDE

the Low Rise Housing Diversity Design Guide for Development Applications (the Guide), dated July 2020 has been considered in the design of the proposal.

In this regard clause 92(1)(e) of the Environmental Planning and Assessment Regulation has been amended to include the Low Rise Housing Diversity Design Guide for Development Applications as a prescribed matter to be taken into consideration by a consent authority in determining development applications.

However, clause 92(1)(e) indicates the Guide is only a prescribed matter in relation to manor houses or multi dwelling housing (terraces), and only if the consent authority is satisfied that there is not a development control plan that adequately addresses such development.

The definition of multi-dwelling housing (terraces) requires *“all dwellings face and generally follow the alignment of one or more public roads”* and the second row of dwellings do not.

It is therefore not considered that the Guide is directly applicable in the assessment of the application notwithstanding whether Council has adopted all or part of the Guide into its DCP, which does not appear to have occurred to date.

Notwithstanding this, in the pre-DA meeting notes, Council indicated Section 2.4 of the Guide should be discussed in any Statement of Environmental Effects. Further the pre-DA minutes indicated the maximum storey control for R3 land of 3 storeys and criteria 14 which requires a maximum gross floor area for R3 land of 80% of the lot area should be addressed.

Section 2.4 applies to multi dwelling housing and indicates that a key characteristic is that each dwelling has its entry and private open space at ground level and can be attached or detached. The proposal complies with these key characteristics.

Section 2.4 further indicates this form of development can be strata titled and that car parking can be located in front, off a rear lane, an internal street or underground. The proposal provides for underground parking.

SEPP 65 Design Quality of Residential Flat Development

SEPP 65 applies to development for the purpose of a '*residential flat building, shop top housing or mixed use development with a residential accommodation.....*'. The proposed development is defined as 'multi dwelling housing'. Consequently, SEPP 65 does not apply to this development.

Notwithstanding this the Design Excellence Panel has considered and commented upon the primary design principles which are discussed throughout this report.

NORTH SYDNEY LEP 2013

1. Permissibility within the zone

The site is zoned R3 Medium Density Residential under the provisions of the North Sydney Local Environmental Plan 2013 (NSLEP 2013). Development for the purpose of a *Multi Dwelling housing* is permissible with the consent of Council.

Multi Dwelling Housing is defined in NSLEP 2013 as:

3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

The proposal meets the definition by providing (individual) access at ground level for the Wheatleigh Street orientated dwellings and access around building but at ground level for the rear row of dwellings.

2. Residential Zone Objectives

The objectives of the R3 Medium Density Residential Zone are:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*

- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

Development anticipated in the R3 Medium Density Zone includes multi dwelling housing, such as that proposed. The proposal is consistent with the zone objectives because it provides for the housing needs of the community within a medium density residential area of North Sydney.

The site as existing currently accommodates three detached dwellings, being low density residential development in an R3 (Medium Density) residential zone. The proposal as amended is in line with the anticipated development potential within the R3 zone and will not unreasonably compromise the amenity of the surrounding area as it is of a height, scale and density that are envisaged by the planning controls.

NSLEP 2013 Compliance Table

Principal Development Standards – North Sydney Local Environmental Plan 2013			
Site Area – 1783.7 m²	Proposed	Control	Complies
Clause 4.3 – Heights of Building	Variable – maximum 8.5 - 9.5 metres	8.5 metres	Yes
Cl.4.3(2) Height of building not to exceed that shown on Building Heights Map			

3. Height of building

The maximum building height for the site is 8.5 m pursuant to clause 4.3(2) of NSLEP 2013. The proposal breaches the maximum 8.5m height control at the rear of the front row of dwellings, and most significantly in relation to the lift overruns.

The front row of dwellings has a maximum height of 8.1m (southern side) – 9.3m (northern side) at the rear, breaching the control by up to 800mm.

The lift overruns vary in height from 8.5m (southernmost) to 9.5m (northernmost), breaching the height control by up to 1.0m.

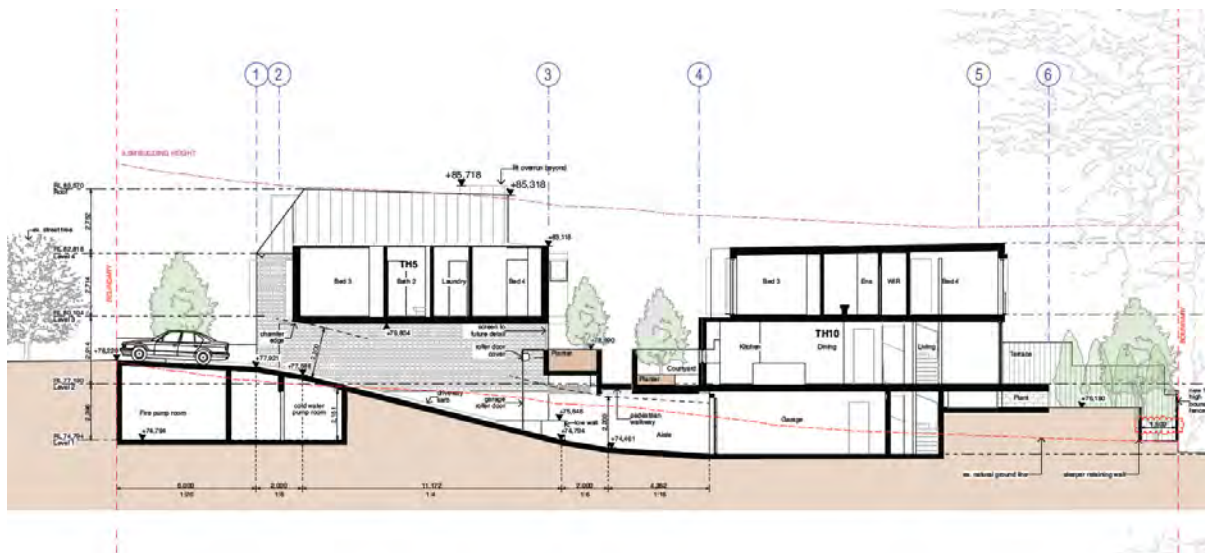


Figure 4: Proposed long section details showing proposed height breach above exiting ground level to Wheatleigh Street row of dwellings.

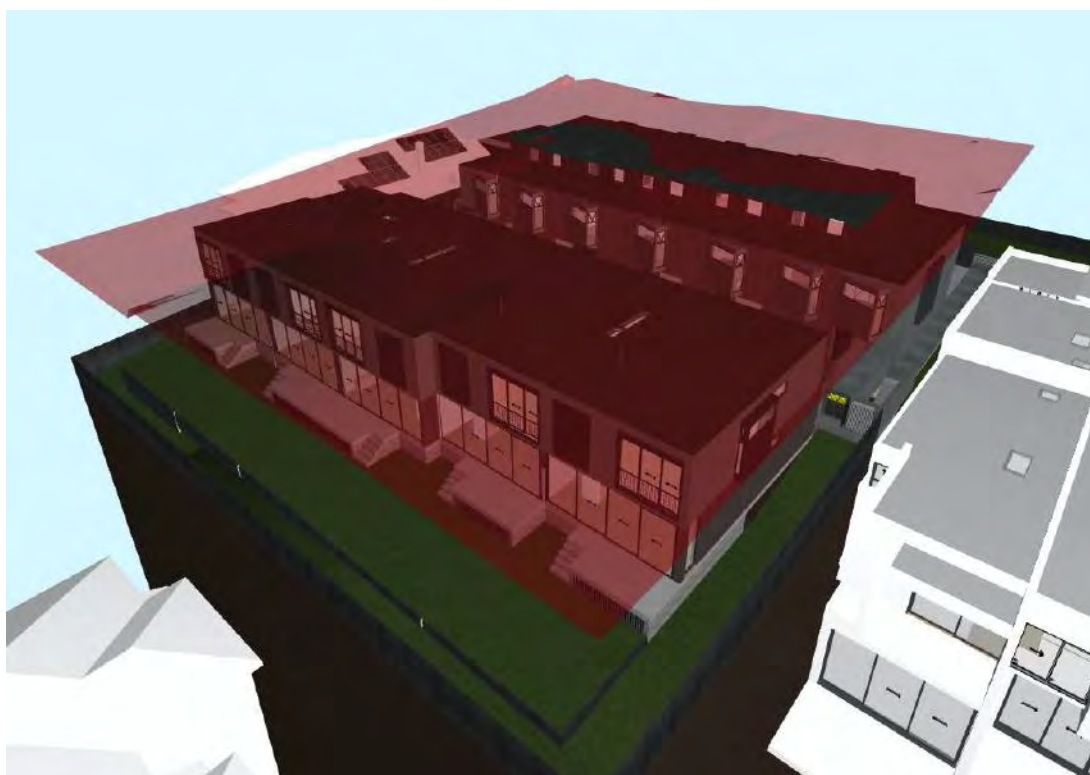


Figure 5: Axonometric Model showing the height plane across the height. Areas of non-compliance are indicated in dark grey above the height plane.

Clause 4.6 (Exception to development standards)

The applicant has submitted a written request to address the contravention of the development standard, pursuant to clause 4.6 of NSLEP 2013. The proposed variation has been assessed in accordance with the requirements outlined in:

- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009
- *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118) and
- *NSWLEC Wehbe v Pittwater* 2007

In relation to clause 4.6 requests, as against the requirements of clause 4.6 and the objectives of the building height control, discussed as follows:

(a) *To promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient.*

The proposed development adequately accounts for the site's topography with the maximum breach occurring in the upper roof form of the proposals front row of dwellings. The areas of breach of the height control are relatively minor breaches at the rear of the upper floor and the lift overruns. The breaches do not result in any increase in building density on the site, but rather are a result of the rearward slope of the site. No objection is raised to the proposal in this regard.

(b) *To promote the retention and, if appropriate, sharing of existing views.* Given the building is in alignment with the buildings at the front street setback, those elements in breach of the building height control are not considered to result in the material loss of views.

(c) *To maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development.* The proposal will result in new shadow which will fall over the adjoining dwelling at 21 Wheatleigh Street, Crows Nest to the south. Given the east west orientation, this is level of impact is broadly consistent with a compliant built form.

The proposed development has no detrimental impacts upon solar access to the dwellings to the north. Minimal additional shadowing results from the development to the dwellings within the multi dwelling development at 22-24 Donnelly Road to the rear of the site, with minimal additional shadowing to courtyard that will still retain appropriate solar access in accordance with the requirements of the DCP. It is noted that the development complies with the height control at the rear and as such any addition shadowing of these properties occurs from compliant components of the development.

Impacts to 21 Wheatleigh

The shadow impact upon the dwelling at 21 Wheatleigh Street has been reduced in the amended plans suite by reducing the height of Dwelling 5 where it adjoins the southern boundary and increasing the setback of the upper floors of the townhouse beyond the minimum required by the DCP. The rear row of dwellings is significantly below the height control and setback further from the side boundary than the minimum required.

The living room windows of the dwelling and private open space both retain solar access for in excess of 3 hours at midwinter as shown in the amended solar access diagrams which include a specific set to detail the additional impact to the rear north-eastern room to which specific concern is raised in a number of submission.

It should be noted that the retained solar access to the living room windows occurs to the top of the windows and as such the solar access penetration into the living rooms is maximised. New shadow impact is not resultant from any element of the proposal that breaches the height control. This will be discussed in further detail in the DCP section of the report.

- (d) To maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings.** No additional privacy related impacts will be introduced as a result of the non-compliance to the height standard.

The design of the development orients the dwellings to the street frontage and rear, protecting the privacy of the neighbouring properties to the sides. Where the rear terraces are elevated, side privacy screens are proposed to protect the privacy of properties to the sides.

A rear setback is achieved which is acceptable to protect privacy between the subject site and properties to the rear, which is further improved by the existing extensive tree cover on the property to the rear, the setback of 1.5m from the boundary before any fill is proposed and the proposed landscaping within the development.

The breaching elements of the proposal are internalised within the development and does not result in any privacy impacts upon existing residents or detriment impacts upon the privacy of proposed residents.

The development will not give rise to any adverse visual or acoustic privacy impacts by virtue of any breach of the height control and is acceptable in this regard.

- (e) To ensure compatibility between development, particularly at zone boundaries.** The building in its amended form is considered to be compatible with surrounding development and is considered to be a generally expected outcome of development on the site. Adjoining sites to the north and south are also zoned R3 Medium Density Residential.

The site is located at a zone and Council boundary, with lower density properties being located on the western side of Wheatleigh Street and located in Willoughby Council. The proposed height of the development as viewed from the street is largely compliant with the height control with only minor breaches to the main building occurring or projections for lift overruns. As such the breach of the control does not result in any incompatibility between the development and the existing dwellings on the western side of the street.

The proposal particularly the non-complaint height elements is not considered to result in any adverse compatibility issues.

- (f) To encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.** The bulk and scale of the development is consistent with the established and intended future character (Medium Density) locality and within acceptable development parameters.

The DA has been amended to promote a form that is more sympathetic to the existing built form character but also achieves an improved streetscape outcome by creating an appropriate transition in scale between recently approved townhouse development to the east and south-east and the townhouses under construction to the immediate north of the site and the residential building to the south.

The density of the proposal is unaffected by the breach to the height standard since it does not incorporate any additional floor space.

The proposed development is considered to be consistent with, and would not hinder, the objectives of the Height standard.

Sufficient environmental planning grounds (CI4.6(3)(b) NSLEP 2013)

The applicant submits that the following environmental planning grounds are sufficient to support of the proposed breach and request for variation:

- *The breach of the height control results from the slope of the site which falls from the front to the rear of the site.*
- *The slope means that the driveway to the basement of the development is required to “chase the slope” with the ramp, making it impossible to provide an entirely underground car park. This means that providing a three-storey built form is not possible at the rear of the site as to do so would significantly breach the height controls and detrimentally impact surrounding properties.*
- *However, the provision of a three-level built form at the front of the site in the form of a building which presents as a two storey form with rooms within the roof is beneficial to the streetscape presentation of the development. The dormer windows provided result in significant articulation of what would otherwise be a bulky and unrelieved roof form.*
- *It is noted that in Council’s pre-DA meeting it was requested that the roof form be articulated to ensure it does not present a bulky and unrelieved form given the length of the building. The result is the reduced sized upper level floor which is compliant with the height control at the front and achieves Council’s streetscape objectives, but results in a breach of the height control at the rear.*
- *It is considered that providing an appropriately articulated roof form presentation to the street is a sufficient environmental planning ground to support the variation of the height control to the rear of the front row of dwellings, given the slope of the site.*
- *The second breach occurs due to the lift overruns, which have been minimised in height as much as possible. The provision of individual lifts within the development is seen as providing a significant benefit to the future residents and the community in general, allowing the residents to “age in place”, which is a priority in the design of residential development given the aging population.*
- *Given the location of the lift overruns makes them barely discernible from the streetscape and given the significant benefit of the lift overruns it is considered that there are sufficient environmental planning grounds to support the variation in the height control related to them.”*

Conclusion

The assessment demonstrates that the non-compliant elements of the development will not give rise to any material or adverse impacts regarding the objectives of Clause 4.3 Building Height of NSLEP 2013. It is considered that there are sufficient environmental planning grounds to justify contravention of the development standard. The objectives of the height control will be achieved despite the variation. On this basis the request for variation is considered well founded and it would be unreasonable to require compliance in the circumstances of the case.

4. Earthworks

Clause 6.10 of NSLEP 2013 seeks to ensure that earthworks will not have any detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

To achieve the basement level, bulk excavation will extend to depths of up to 3.00 metres. Some excavation will be required to be within 900 mm of the northern, western and southern boundaries.

Fill is intended to be reused on site where possible however the majority of the material excavated will need to be disposed off site to an approved landfill site.

As per the provisions of Clause 6.10(3), the following matters are required to consider before consent can be issued.

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

- a) the likely disruption of, or any detrimental effect on:**
 - i. drainage patterns and soil stability in the locality of the development, and**
 - ii. natural features of, and vegetation on, the site and adjoining land,**

Drainage flows across the reflect the existing topography flowing from the western side to the to the lower eastern side of the site. The excavation is not considered to be so significant that underground flows of water will be significantly altered, and surface contouring is proposed to provide for surface overland flow capture before a pumped system to return it to the street. Council's Engineer has recommended conditions be imposed to adequately deal with stormwater management.

With regard to natural features, there is no evidence of any natural surface rock outcropping occurring in the site. Accordingly, the proposed excavation is acceptable in this regard.

- b) The effect of the development on the likely future use or redevelopment of the land,**

The proposal will maintain the residential use of the land, at a higher density as existing which is in accordance with the R3 Medium Density Residential zoning and zone objectives applicable to the site.

c) the quality of the fill or the soil to be excavated, or both,

Given the extended residential history of the site it is unlikely that the site has experienced any significant contaminating activities which would give rise for concern relating to the quality of material to be excavated and disposed off site. Where practicable, some of the excavated material will be re used on site however the majority of the excavated material will be removed off site for disposal to a suitable landfill.

d) the effect of the development on the existing and likely amenity of adjoining properties,

The analysis of this report concludes that the development will largely be acceptable to surrounding properties with regard to amenity impacts. It is noted that the excavation in itself would reflect the anticipated impact anticipated for development in the Medium Density Residential R3 Zone, and that basement car parking is sufficiently common feature for such developments. The impacts would not result in any significant adverse amenity impact to these properties subject to (standard) conditions to manage construction and excavation impacts. The development and excavation is acceptable in this regard.

e) the source of any fill material and the destination of any excavated material,

Where practicable, some of the excavated material will be re used on site however the majority of the excavated material will be removed off site for disposal to a suitable landfill.

f) the likelihood of disturbing Aboriginal objects or relics,

The site has an extended history of residential usage with no surface outcropping of rock occurring on site. The likelihood of disturbing any relics is very low. Standard precautionary conditions can be included upon any determination notice

g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,

The site does not supply any drinking water catchments. Appropriate sediment and erosion control measures can be included as conditions of development consent should NSLPP issue instruction for the proposal to be approved to prevent sediment movement into adjoining properties. Council's Development Engineers have also examined the proposed stormwater disposal plan and concluded (subject to recommended conditions of consent) that post development stormwater discharge quality would be reasonably maintained. The development is acceptable in this regard.

Prior to demolition, dilapidation reports would need to be required, externally on the adjoining properties located to the north and south of the site.

Council's Development Engineer has recommended appropriate conditions with regard to geotechnical reports if the application is found to have merit by NSLPP to be approved.

In accordance with the provisions of Clause 6.10(3) this assessment has considered the impact of the excavation on site and to surrounding properties and found the excavation would be acceptable or could be adequately controls via the imposition of conditions of development consent. Accordingly, the development is supportable in this regard.

Vehicle access

Development for the purposes of a driveway and vehicular crossing within a road reserve associated with a permissible use in an adjoining zone may be carried out with consent, pursuant to clause 6.13 of the LEP. Conditions have been recommended by Council’s Development Engineer to ensure that any new driveway complies with relevant standards while protecting public infrastructure assets in the vicinity of the works.

DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessed against the following relevant sections of NSDCP 2013

- Part B Section 1 Residential Development
- Part B Section 10 Car parking and Transport
- Part C Section 3 St Leonards / Crows Nest Planning Area (Section 3.3 Crows Nest Neighbourhood)

DCP 2013 Compliance Table

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 1- Residential Development		
	<i>complies</i>	<i>Comments</i>
1.2 Social Amenity		
Population Mix P2. Multi dwelling housing must achieve at least two of the following dwelling types; studio, 1 bedroom, 2 bedroom, three bedroom	Yes	P2 requires at least 2 of each dwelling types for proposals with over 20 dwellings. Whilst the development does not propose over 20 dwellings, the proposal as amended complies with the requirement providing three-bedroom and four-bedroom townhouses. P6 requires 15% of dwellings in a multi-unit proposal containing more than 5 dwelling to be adaptable. The development, proposing 10 townhouses would require 1.5 or two adaptable dwellings. All dwellings will have internal lift access and the two adaptable dwellings are provided in compliance with the control All dwellings have access to private outdoor area satisfying control P9. The development is acceptable in this regard.
Maintaining Residential Accommodation	Yes	The proposal results in the loss of three detached dwelling houses but would result in ten (10) new three and four bedroom dwellings in accordance with Part B, Section 1.2.2 of NSDCP 2013 which requires development not to result in a reduction in residential density.

Affordable Housing	N/A	The development is not proposing any new dwellings under the provisions of SEPP Affordable Rental Housing.
Housing for Seniors/Persons with disability	N/A	The proposal has not been designed for seniors living. Pursuant to P6 in Part B, Section 1.2.1 in NSDCP 2013, Adaptable dwellings are included within the development. Due to the lift access from the basement, all dwellings are visitable. The development is acceptable in this regard.
1.3 Environmental Criteria		
Topography	Yes	<p>The topography controls of relevance seek to locate habitable rooms above existing ground level, to provide finished ground level within 500mm of existing ground level and to keep excavation 1m from boundaries.</p> <p>The proposed development is generally in accordance with the above requirements with the following exceptions.</p> <p>The excavation is generally significantly more than 1m from the boundaries. However, a small area of excavation is required closer to the northern boundary to provide a fire egress stair from the basement and a small area of excavation is required closer to the southern boundary for the OSD/pump out tank.</p> <p>The exit stairs are located on the boundary but is sufficiently separated from the existing dwelling and proposed development on 29 Wheatleigh Street such that it will not result in an adverse impact upon the structural integrity of either structure. The OSD tank is a significant distance from the dwelling at 21 Wheatleigh Street and will not impact the structural integrity of the dwelling.</p> <p>The finished ground level of the dwellings is generally within 500mm of the existing ground level, however due to the slope of the site, the rear dwellings are partially elevated such that they are more than 500mm above ground level. Given the slope of the site, the need to manage stormwater and the need to comply with the Australian Standards for driveway design to the basement, the ground level cannot be further lowered. The level of elevation at the rear is similar to that approved in the multi dwelling housing development at 29 Wheatleigh Street adjoining the site.</p>
Views	Yes	<p>The development is not considered to result in any unreasonable view loss from surrounding buildings or public places.</p> <p>The view controls require that views from streets and public places not be obstructed, and that buildings be designed to minimise loss of views from surrounding buildings.</p>

		<p>It does not appear that there are any views across the site from adjoining properties that would be detrimentally impacted by the proposal.</p> <p>The proposed development will maintain reasonable view sharing, and will not compromise the overall outlook from surrounding dwellings.</p>
Solar Access	Yes	<p>The solar access controls require solar access to be maintained to the windows of the main internal living areas, principal private open space areas, solar panels and communal open space of adjoining properties for 3 hours at midwinter and for this level of solar access to be provided for the proposed dwellings. The impact to adjoining sites is discussed as follows:</p> <p><u>29 Wheatleigh Street, Crows Nest (North)</u></p> <p>The proposal has no shadow impact upon 29 Wheatleigh Street which is to the north of the subject site.</p> <p><u>20-24 Donnelly Street, Crows Nest (East)</u></p> <p>The shadow diagrams show that the proposal has no shadow impact upon the multi dwelling housing at 20-24 Donnelly Street at midwinter until 1pm. Between 1pm and 2pm the proposal has a minor impact upon solar access to the courtyards of two dwellings at 20-24 Donnelly Street. By 3pm the proposal results in a small area of the courtyard of one dwelling and a larger area of the courtyard of another dwelling receiving additional shadowing. Both courtyards receive a good level of solar access between 10am and 1pm at midwinter and as such the additional shadowing does not result in unacceptable shadow impacts upon these dwellings. It is noted that the shadowing is caused by the rear row of dwellings, which are compliant with the height control.</p> <p><u>21 Wheatleigh Street, Crows Nest (South)</u></p> <p>The property most susceptible to shadow impact from the proposed development is 21 Wheatleigh Street which is located to the south of the subject site. The applicant has provided hourly elevation shadow diagrams for this property for midwinter between 9am and 3pm.</p> <p>The layout of the dwelling on 21 Wheatleigh Street appears to have a living area at the rear with three north facing windows and the dwelling has solar panels on the northern side of the pitched roof towards the front and centre of the roof. The rear yard (see Figure 10) as can be seen from the photograph taken from the right-of-way, has a paved parking area adjoining the common boundary with</p>
Solar Access (Cont...)		

the subject site and an entertainment area to the south of the parking area.

The following figure was provided by the applicant to depict the impact to 21 Wheatleigh at this point

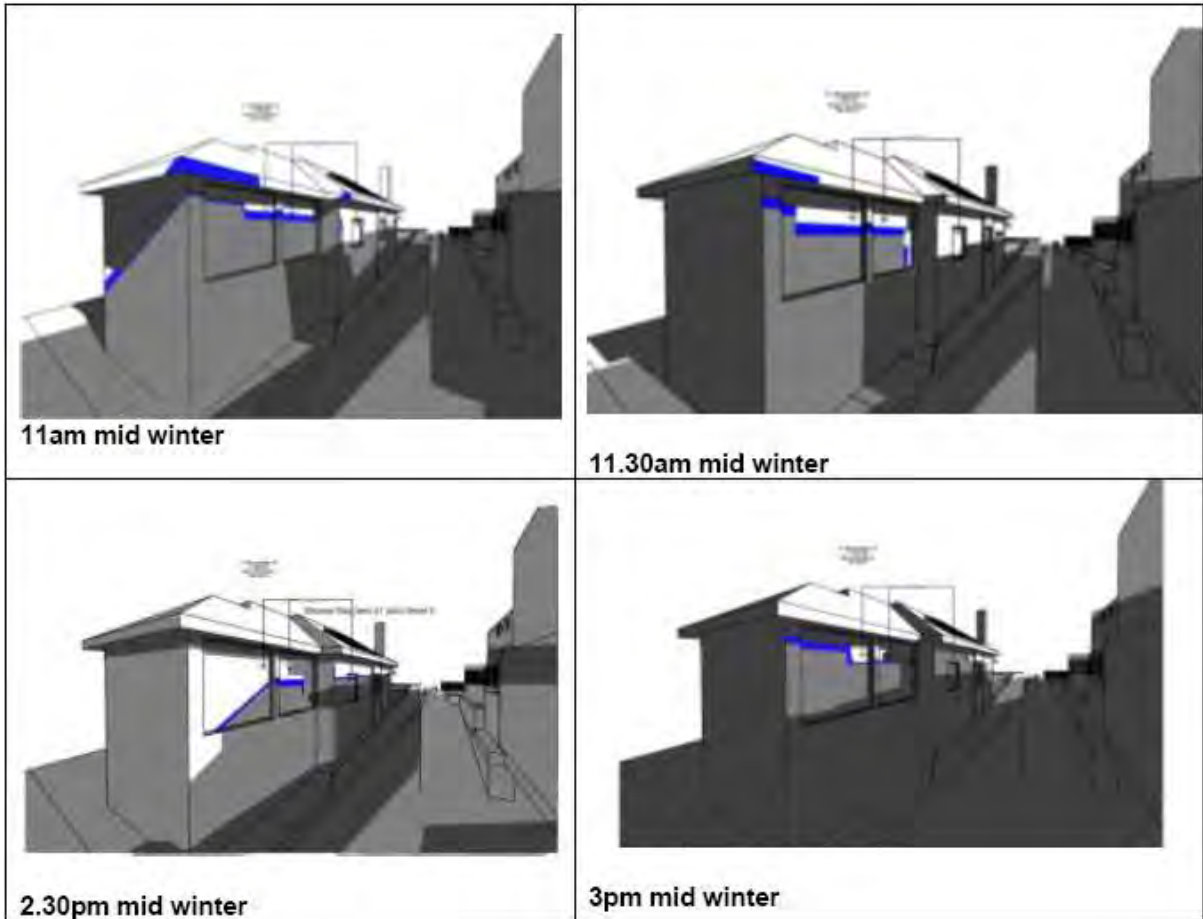


Figure 6: Solar impact of the development to the north eastern side of 21 Wheatleigh Street, Crows Nest.

Solar Access (cont)

Solar Access (cont)

The portion of the development causing the shadow is already below the maximum height control and it has been amended to be setback an additional 317mm beyond the side setback required for this element to reduce shadow impact. Further, the pitch of the rear roof has been lowered to 1o, the lowest possible.

Accordingly, this element if fully compliant with all relevant controls of building bulk, having less site cover than permitted, a greater setback than required and being well below the maximum building height. Given the extent of compliance of this building element, it would be unreasonable to require any further changes, particularly as the three living area windows of the dwelling at 21 Wheatleigh Street will retain solar access between approximately

<p>Solar Access (cont)</p>		<p>10am to 3pm to part of at least one of the three windows.</p> <p>The two larger windows to the rear retain solar access to part of the window between 11am and 3pm (4 hours) and the smaller window third from the rear retains solar access to part of the window between 10am and 2.30pm (4 ½ hours). All three windows retain solar access above that required by the DCP. It is also noted that the solar access retained is to the higher parts of the window and as such the solar access will allow for deeper penetration into the room.</p> <p>Given the location of the windows facing the side boundary and their relatively small setback from that boundary, the retained solar access is in accordance with what would be anticipated in a R3 zone.</p> <p>In this regard, the location and design of the development has endeavoured to provide solar access to the greatest extent possible, providing significant setbacks in excess of the controls for the rear row of townhouses and the upper level of the front row of townhouses.</p> <p><u>Private Open Space of adjoining dwellings (all sites)</u></p> <p>In relation to the proposed development, the shadow diagrams show that the private open space of all dwellings receive solar access between either 9am and 12pm or 12pm and 3pm at midwinter, achieving 3 hours of solar access.</p> <p>The overshadowing impacts are considered to be reasonable and acceptable in the circumstances given that:</p> <ul style="list-style-type: none"> • Adjoining buildings will generally received solar access to principle outdoor areas which will exceed the minimum required 3 hours. • The building complies with the building height control. • The impacts are considered to be consistent with those expected from a compliant building located within the R3 Medium Density Zone. <p>The solar access impacts are considered to be generally as expected for the permissible scale of development on the site and can be supported in this regard.</p>
<p>Acoustic Privacy</p>	<p>Yes</p>	<p>The proposal incorporates masonry construction between the respective dwelling (brick masonry walls and concrete floors) suitable for internal noise attenuation.</p>

		<p>The design satisfies this criterion with all living rooms on the ground floor and all bedrooms on the first and second floor, thereby not resulting in any living spaces adjoining bedrooms.</p> <p>An acoustic fence is proposed on the boundary of the right-of-way adjoining 21 Wheatleigh Street for the length of the driveway to minimize any noise impacts upon the ground level bedrooms of that property.</p> <p>Acoustic privacy is considered to be acceptable and can be supported in the circumstances.</p>
<p>Visual Privacy</p>	<p>Yes (Separation)</p>	<p>The visual privacy controls require that the amenity of the adjoining neighbours be preserved by locating windows to avoid direct or close overlooking of windows and private open space areas. Further, decks more than 1m above ground level are to be limited in width and depth where privacy and view loss are an issue.</p> <p>The proposed design orients the living areas of all dwellings to the street or rear of the site to minimise privacy impacts and windows are located or treated to prevent any privacy impacts.</p> <p>The only windows facing 21 Wheatleigh Street are highlight windows and the terrace to Dwelling 10 has a southern privacy screen to prevent overlooking into the rear yard.</p> <p>The windows in the northern elevation are either highlight windows, frosted or are located or angled to prevent overlooking into the approved development at 29 Wheatleigh Street and the terrace to Dwelling 6 has a northern privacy screen to prevent overlooking into the rear yard.</p> <p>The separation distance between the dwellings and the multi-dwelling development to the rear, in combination with the significant existing and proposed landscaping will result in an appropriate level of privacy retention between the properties.</p> <p>The privacy between the dwellings within the development has also been addressed through appropriate design. The windows at the rear of the first floor of the front row of dwellings have been angled to the north, providing improved solar access and preventing overlooking of the front first floor windows of the second row of dwellings. The rear windows of the second level of the front row of dwellings are to ensuites and will have frosted glazing.</p> <p>Visual privacy is considered to be acceptable and can be supported in the circumstances.</p>

1.4 Quality built form		
Context	Yes	<p>The development is considered to be contextually appropriate.</p> <p>As noted in the Crows Nest Neighbourhood area character statement following new development is to be provided as per the zone, and accordingly the development represents desired future character in accordance with the zone provisions and is generally within expectation of the controls for the site.</p>
Streetscape	Yes	<p>There is no unreasonable impact on the footpath, kerb, guttering or street trees in Wheatleigh Street. The resultant built form will not adversely detract from the existing streetscape and is consistent with the desired future character of the locality. The development is acceptable in this regard.</p> <p>Standard conditions can also be imposed upon any consent to ensure that all replacement kerb guttering is constructed to an acceptable standard.</p> <p>The buildings are setback and aligned with street frontages. Given the alignment of the site to the street, the proposal represents an appropriate response in the circumstances.</p> <p>The development is considered acceptable in this regard.</p>
Siting	Yes	<p>The siting controls require buildings to be sited to match the described character of the character statement or that relate to the neighbouring buildings, with dwellings to address the street and with each wall being parallel to a boundary unless another orientation is characteristic.</p> <p>There are no specific siting controls contained within the Crows Nest Neighbourhood Area Character Statement.</p> <p>The building is proposed to be sited to match the characteristic siting of other building in the street, with the proposed walls parallel to the boundaries and with Dwellings 1 - 5 addressing the street.</p> <p>The front and rear alignment of the development is generally consistent with the development approved at 29 Wheatleigh Street and as such is considered compliant with the controls of the control plan.</p> <p>The proposed side setback from the southern boundary is compliant with the controls of the DCP and the majority of the development significantly exceeds the setback controls from this boundary in order to ensure solar access is maintained to 21 Wheatleigh Street.</p>

		Given the significantly increased setback from the southern boundary, the smaller setback for the northern boundary is considered to be reasonable in the circumstances.
Setbacks - Front	Yes	<p>The proposal has achieved greater than 6.0 metre setback and generally sits behind the alignment of the adjoining two buildings and accordingly is acceptable in this regard.</p> <p>The proposal is considered to achieve the objectives of the setback control in Part B, Section 1.4.6 in NSDCP 2013 and the minimum front setback requirements in Part C Section 5.5.3 in NSDCP 2013 as detailed above.</p>
Setback – Side / Rear	Yes (minimum setback)	<p>The proposal will exceed all stipulated minimum side and rear setbacks and is acceptable in this regard. Generally, at no point is the building less than 1.5 metres from any side boundary.</p> <p>The amended plan now more than complies with the side setback controls, providing 2.5m and 2.817m side setbacks to the rear row of dwellings and 1.5m-4.655m and 4.794m – 8.61m for the front row of dwellings.</p> <p>The rear alignment of the development is generally consistent with the development approved at 29 Wheatleigh Street and as such is considered compliant with the controls of the control plan.</p> <p>Accordingly, the development is acceptable in this regard.</p>
Form Massing Scale	Yes	<p>The development complies with the Building Height Control of Clause 4.3 NSELP 2013 and accordingly is in accordance with the requirement so P1 of this Section of the DCP.</p> <p>The Upper Slopes Area Character Statement does not stipulate whether new development should have pitched or flat roofs. The building proposes pitched roof commensurate with a typical detached dwelling and is considered to provide an appropriate transitional form between the Heritage item to the west and flat building to the east.</p> <p>The development is considered to meet the intent control P6 (ancillary buildings to be much smaller scale) in that the garage's flat roof makes the garage more subservient to the overall visual appearance of the front elevation of the building with the viewers eye being drawn to the pitched roof elements.</p> <p>Upon analysis of the non-compliances identified under this section of the DCP no material impact arising out of the non-compliances has been identified and accordingly the proposal is acceptable in this regard.</p>

Built Form Character	Yes	<p>As discussed previously, the proposal is considered to be an appropriate transitional form between the recently approved multi unit development at 29 Wheatleigh Street, Crows Nest and dwelling at 21 Wheatleigh Street, Crows Nest. Accordingly, given this circumstance, the development is appropriate in this regard.</p> <p>The applicant has amended the front façade and improved its streetscape appearance. The proposed built form reflects the building typology for multi Dwelling housing.</p> <p>With regard to Control P6, ground level access from the street has been arranged for all dwellings. The development is accordingly considered acceptable in this regard.</p>
Dwelling Entry	Yes	<p>Dwellings with direct street access/address have definable entry points with the street facing dwellings directly accessible from Wheatleigh Street and the remaining dwellings being accessible from the common access points in the northern and southern ends of the site. The development is acceptable in this regard.</p>
Roofs	Yes	<p>As discussed under the Form Massing and Scale Heading of the compliance table, the development proposes a low pitched roof is considered acceptable in the circumstances and for the preservation of outlook for adjoining buildings. No objection is raised to the roof in this regard.</p>
Materials	Yes	<p>No objection is raised to the amended materials as proposed which are general high quality and muted tones. Further landscaping has been proposed to provide relief from any perceived glare from any lighter colours in the palette. The front façade of the building is not dominated by glass materials.</p> <p>The area is not a conservation area not subject to any special material requirements.</p>
Balconies – Apartments	N/A	<p>No balconies within the proposal. All dwellings have access to ground level courtyards accessible from main living areas.</p>
Front Fences	Yes	<p>The controls permit transparent fences to a height of 1.5m or solid fences to a maximum height of 1m. The proposed fence is a low, visually transparent fence complying with the controls.</p>
1.5 Quality Urban Environment		
High Quality Residential Accommodation	Yes	<p>All dwellings within the proposal meet or exceed minimum unit sizes as required by the DCP. Additionally, dwelling layouts and depth have been designed so that no habitable rooms are greater than 10 metres from a window given the dual aspect of all dwellings within the development. Generally, all service areas of the dwellings have been located appropriately and living space on the external portion of the building.</p>

		<p>All dwellings are provided with outdoor private open space.</p> <p>The dwellings achieve 100% cross ventilation compliant with the requirements of DCP 2013. All having openings to two or more elevations.</p> <p>Accordingly, the proposal is considered to be acceptable in this regard.</p>												
<p>Safety and Security</p>	<p>Yes</p>	<p>The building is satisfactory with pedestrian entry for all street orientated dwellings accessible from street level.</p> <p>Common access is provided to the remaining dwellings and good separation is provided between the rows of buildings. There is general lack of concealment points are proposed to remaining dwellings.</p> <p>The front fence generally assists in distinguishing entrance areas and private open space areas.</p> <p>The development is acceptable in this regard.</p>												
<p>Vehicle Access and Parking (Inclusive of considerations required under Part B Section 10 Car Parking and Transport of NSDCP 2013)</p> <table border="1" data-bbox="220 1167 657 1339"> <thead> <tr> <th>Unit (Br)</th> <th>Rate (max)</th> <th>Totals</th> </tr> </thead> <tbody> <tr> <td>3 br+ (10)</td> <td>1.5</td> <td>15</td> </tr> <tr> <td>Vis</td> <td>0.25/dw</td> <td>2.5</td> </tr> <tr> <td>Total</td> <td></td> <td>17.5</td> </tr> </tbody> </table>	Unit (Br)	Rate (max)	Totals	3 br+ (10)	1.5	15	Vis	0.25/dw	2.5	Total		17.5	<p>No</p>	<p>As per the table in the opposite column, a maximum allowable total of parking in the proposal would be 17.5 or 18 spaces. Maximum required parking for the dwelling component is 15.</p> <p>The car parking for dwellings 6-10 has been reduced to single garages which reduces parking for residents to 16 spaces, noting the garages for dwellings 7-8 are for the adaptable dwellings and as such the width of the garage is increased to allow accessible parking. Including the three visitor spaces, there will be a total of 19 Spaces within the development and exceed the requirement.</p> <p>Over provision of parking within development is generally not supported, however, as a number of submissions note, the locality has a shortage of spaces and a development comprised entirely of 3 or 3+ bedroom dwellings should have a higher allowance of resident car spaces to service the development.</p> <p>Space is also designated in the basement for ancillary storage and provision of bicycle spaces as required by the Traffic referral to be provided.</p> <p>Generally, the proposal is considered acceptable with regard for parking and traffic matters</p>
Unit (Br)	Rate (max)	Totals												
3 br+ (10)	1.5	15												
Vis	0.25/dw	2.5												
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<p>Site Coverage</p> <p>Site coverage requirements for Multi Dwelling Housing</p> <table border="1" data-bbox="220 2042 616 2145"> <thead> <tr> <th>Lot Size (m²)</th> <th>Site Coverage (max)</th> </tr> </thead> <tbody> <tr> <td>All</td> <td>50%</td> </tr> </tbody> </table>	Lot Size (m ²)	Site Coverage (max)	All	50%	<p>No</p>	<p>A maximum site cover of 50% applies to multi-dwelling housing.</p> <p>The amended proposal allows for a site coverage of 843.41 m2 or 47.3%</p>								
Lot Size (m ²)	Site Coverage (max)													
All	50%													

		<p>The site contains a right-of-carriageway with an area of 25m² for access to 21 Wheatleigh Street which is it were excluded from the calculations the site coverage would be near compliant in this regard at 48%.</p> <p>On the basis of this existing site constraint, which is maintained in the proposal, the development can be supported in this regard</p>						
<p>Landscape Area</p> <p>Landscape Area requirements for Multi Dwelling Housing</p> <table border="1"> <thead> <tr> <th>Lot Size (m²)</th> <th>Landscape (min)</th> <th>Unbuilt upon area (max)</th> </tr> </thead> <tbody> <tr> <td>All</td> <td>30%</td> <td>20%</td> </tr> </tbody> </table>	Lot Size (m ²)	Landscape (min)	Unbuilt upon area (max)	All	30%	20%	No	<p>A minimum landscaped area of 30% of the site area is required and a maximum unbuilt upon area comprising driveways, paved areas and patios of 20% of the site area is allowed.</p> <p>The proposal includes deep soil landscaping of 525.1 m² or 29.4% of the site area and an unbuilt upon area of 389.49 m² or 21.2%.</p> <p>The site contains a right-of-carriageway with an area of 25m² for access to 21 Wheatleigh Street which is it were excluded from the calculations the landscaping and unbuilt upon parameters would be near compliant at 29.9% and 22.2% respectively.</p> <p>On the basis of this existing site constraint, which is maintained in the proposal, the development can be supported in this regard</p>
Lot Size (m ²)	Landscape (min)	Unbuilt upon area (max)						
All	30%	20%						
Excavation	Yes	<p>Subject to recommended conditions including the requirement for a geotechnical report, the proposed earthworks are unlikely to adversely affect subsoil drainage, the structural integrity of adjoining properties or existing trees on either the subject site or adjoining properties.</p> <p>A cut and fill diagram has been prepared and provided. The extent of cut associated with the basement has been reduced (see dark grey shading on basement plan) and the extent of fill has also been reduced around the side and rear boundaries.</p>						
Front Gardens	Yes	<p>The proposed treatment of the front setback area is acceptable in the circumstances. The access driveway and pedestrian access has endeavoured to minimise hard surfaces over the setback area.</p> <p>Appropriate planting and landscaping has been proposed including larger shrub species to reduce the visual massing of the front of the building.</p>						
<p>Private and Communal Open Space</p> <table border="1"> <thead> <tr> <th></th> <th>Ground Floor area (m²/dw)</th> <th>Above ground area</th> </tr> </thead> <tbody> <tr> <td>Multi dwelling housing</td> <td>35 m²</td> <td>8 m²</td> </tr> </tbody> </table>		Ground Floor area (m ² /dw)	Above ground area	Multi dwelling housing	35 m ²	8 m ²	Yes	<p>The proposal provides satisfactory private open space in the form of front and rear courtyards at ground level of the dwellings. The courtyards are located directly off the living rooms and appropriately sized to maximize their usability.</p> <p>All courtyard areas exceed minimum requirements.</p>
	Ground Floor area (m ² /dw)	Above ground area						
Multi dwelling housing	35 m ²	8 m ²						

		<p>The proposal does not provide a communal open space however this is considered acceptable given the small number of dwellings of the development and sufficient areas of private open space for each dwelling and improved central communal access corridor allowing for each for social interaction amongst residents.</p> <p>The development is acceptable in this regard.</p>
Garbage Storage	Yes	<p>All dwellings have an independent designated bin area located from the central pedestrian spine of the development.</p> <p>A temporary garbage bin area is proposed at street elevation at the south western corner of the site and is capable of holding the required number of bins (waste and recycling) for collection.</p> <p>The temporary enclosure is screened from the street and is accessible for all occupants. The development is acceptable in this regard.</p>
Site Facilities	Yes	<p>The development can be adequately serviced. All dwellings have access to outdoor space for clothes drying and recreation purposes.</p> <p>All dwellings have lockable mailboxes alongside the entrances at the street frontages.</p> <p>Fold away clothes lines re proposed within the inside courtyards to the dwellings. There are also storage areas in the basement and further storage areas within each dwelling. The development is acceptable in this regard.</p>
1.6 Efficient Use of Resources		
Energy Efficiency	Yes	<p>The applicant has provided a BASIX Certificate in support of the development application which requires suite of energy efficiency measures such as:</p> <ul style="list-style-type: none"> • Energy efficient internal appliances • Energy efficient lighting • Thermal insulation levels for glazing, walls and ceilings <p>A condition has been recommended to ensure that the measures contained within the BASIX Certificate are undertaken at all stages of the development process. Note, the amended design was certified by an ABSA consultant as being capable of complying with the requirements of the originally submitted BASIX certificate.</p>
Passive Solar Design	Yes	<p>The development will perform adequately in this regard. The design has avoided directed southern orientated units.</p> <p>Each dwelling has access to two separate outdoor spaces. The applicant has taken all reasonable measures to provide for adequate solar access to the development and maintain access for adjoining sites.</p>
Thermal Mass and Insulation	Yes	As per the BASIX certificate

Natural Ventilation	Yes	The applicant has taken all reasonable measures to provide adequate natural ventilation to the apartments. All dwellings have opening over at least two elevations and accordingly all are cross ventilated.
Hot Water Systems	Yes	The dwellings will be serviced with gas instantaneous 5.5 star system in accordance with the BASIX requirements.
Water Conservation	Yes	In accordance with the BASIX Certificate commitments: <ul style="list-style-type: none"> • The applicant must ensure new or altered showerheads have a flow rate no greater than 9 litres per minute or a 3 star water rating. • The applicant must ensure new or altered toilets have a flow rate no greater than 4 litres per average flush or a minimum 3 star water rating. • The applicant must ensure new or altered taps have a flow rate no greater than 9 litres per minute or minimum 4 star water rating.
Stormwater Management	Yes	The stormwater design has been reviewed by Council's Development Engineer and is acceptable subject to conditions of development consent. The stormwater system also includes a rainwater collection tank for reuse on site. Standard conditions have been recommended to require necessary sediment erosion control measures to be employed at the site during construction phases.
Water Management and Minimisation	Yes	
Green Roofs	N/A	The development is not specifically proposing a green roof.

NSDCP 2013 AREA CHARACTER STATEMENT

St Leonards/Crows Nest Planning Area (Crows Nest Neighbourhood)

Consideration has been given to Part C of NSDCP 2013 and in particular Section 3 St Leonards and Crows Nest Area Character Statement. The site is zoned R3 Medium Density Residential and multi dwelling developments are permissible and form part of the desired future character of the area. The preceding assessment table has considered the provisions of the Crows Nest Neighbourhood Character statement.

All matters arising out of the ACS have been discussed where relevant in the following DCP compliance table. The development provides for residential growth in the area in the form of a multi dwelling housing building in a garden setting that reflects and reinforces the intended higher density residential character and zoning of the area. The development is acceptable in this regard.

North Sydney Local Infrastructure Contributions Plan 2020

The subject application has been assessed against the North Sydney Local Infrastructure Contribution Plan 2020 and is subject to payment of contributions towards the provision of local infrastructure. Section 7.11 Contributions will be charged for the additional 10 x 3+ bedroom dwellings created less the credit applied for the existing three x 3+ Bedroom detached dwellings on site. The contributions payable have been calculated in accordance with Council's Contributions Plan as follows:

s7.11 contribution

Open space and recreation facilities:	\$77,090.24
Public domain:	\$42,913.85
Active transport:	\$2,449.36
Community facilities:	\$15,483.94
Plan administration and management:	\$2,062.62
Total:	\$140,000.00

APPLICABLE REGULATIONS

Demolition

Clause 92(1)(b) of the EPA Regulation 2000 require that council take into consideration *Australian Standard AS 2601-1991: The Demolition of Structures*, as in force at 1 July 1993. As demolition is proposed, suitable condition precautionary conditions including those dealing with the likely presence of asbestos and lead based paints are included in the recommendation of this report.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

1.	Statutory Controls	Yes
2.	Policy Controls	Yes
3.	Design in relation to existing building and natural environment	Yes
4.	Landscaping/Open Space Provision	Yes
5.	Traffic generation and Carparking provision	Yes
6.	Loading and Servicing facilities	Yes
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant 4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The relevant issues raised by submitters have largely been addressed within this report. Additional comments are provided below:

- ***Errors and inconsistencies in the plans,***

Council is satisfied that the plans contain sufficient detail to accurately assess the impacts of the application.

- ***Height***
- ***Bulk and scale,***
- ***Character of the Area,***
- ***Overdevelopment of the site,***
- ***Proposal is against the zone objectives***

The proposal as amended has been considered against the provisions of the Bulk and scale, Local Context, Character and zone objectives, Building Height Control (Clause 4.3 of NSLEP 2013) and DCP 2013 sections of the report.

The amended development is compatible with surrounding development and is considered to be a generally expected outcome for development in the R3 (Medium Density Residential) zone. Adjoining sites to the north and south are similarly zoned R3.

The proposal as amended is in line with the anticipated development potential within the R3 zone and will not unreasonably compromise the amenity of the surrounding area as it is of a height, scale and density that are envisaged by the planning controls.

- ***Concerned over long term impacts***
- ***Cannot afford to relocate anywhere else***

The proposal is considered to exhibit an acceptable level of compliance that the development would not result in any long-term adverse impacts.

The development is not considered to result in a loss of value for local properties. Financial matters relating to people who wish to move away from the development are not a matter for consideration under the provisions of the NSW Environmental Planning & Assessment Act and Regulations.

- ***Inadequate side setbacks***

As detailed within this report, the amended development complies with applicable setback requirements. This is addressed in the NSDCP 2013 Setbacks discussion provided in the DCP compliance table.

- ***Solar Access***

As detailed within this report, the amended development is satisfactory with regard to applicable solar access requirements. This is addressed in the NSLEP 2013 Building Height Control and NSDCP 2013 Solar Access discussion provided in the DCP compliance table.

- ***Potential for damage to adjoining properties***
- ***Excessive excavation / soil movement during construction***

The proposal as amended is considered to propose an acceptable level of excavation in the circumstances. The proposed excavation is considered to be sufficiently separated from adjoining properties and would not present immediate concern for the stability of the site or adjoining properties. Council has also included standard dilapidation conditions to address this issue.

- ***Loss of views, privacy, solar access/ambient light/ventilation***

As detailed within this report, the proposed development is considered to result in an acceptable level of overshadowing and view loss, light and ventilation impact to adjoining properties. The principle building envelope is largely within that anticipated by the controls on the site.

Privacy has been assessed as being acceptably resolved throughout the development primarily via the orientations used for the dwellings.

- ***Concern over the colours and materials,***

The site is not located in a heritage Conservation area. The colours are considered to be acceptable in the circumstances due to the complaint setbacks, uses of appropriate mix of contemporary textured materials and landscaping to soften the visual impact of the development.

- ***New Replacement landscaping is not adequate***
- ***Loss of trees not acceptable,***

Removal of trees within the development has been minimized. New landscaping is considered to be suitable in the circumstances. An arborist report includes tree protection measures for trees on adjoining sites.

- ***Traffic and parking impacts***
- ***Basements are not typical in the area***
- ***Lack of Construction Traffic Management***
- ***Safety risk to pedestrians***

The development has been assessed by Council's Traffic Engineers. The proposed development as assessed is not considered to result in unacceptable implications in terms of road network capacity, footpath safety and availability of on-street parking.

It is concurred that basements are currently not typical of the area but are not considered to be an irregular form of development in association with multi dwelling development. As the area is zoned for multi dwelling development, no objection is raised in relation to the basement and is considered to be appropriate for the provision of parking on site.

Matters relating to Construction Traffic Management have been recommended to be conditioned and will be subject to review by Council's Traffic Engineers prior to the development proceeding to construction. This is a standard requirement for medium to large scale developments.

- ***impact to working from home arrangements***

Impacts to working from home arrangements will be temporary for the duration of the construction however in approving a development, the benefit of the doubt must be given to enable the development to be constructed.

- ***Concerns over provisioning of stormwater and sewer disposal***

Matters relating to the disposal of stormwater and sewerage on site have been reviewed by Council's Development Engineer and deemed acceptable in this regard.

CONCLUSION

The subject development application is an amended proposal which seeks approval for the demolition of the existing dwelling on site and the construction of a two - three storey multi dwelling housing building containing ten dwellings over basement parking and ancillary landscaping.

The development application has been assessed against the North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013.

The proposal is considered acceptable in the circumstances as the development will improve housing choice and availability in the local area without having material adverse impacts on adjoining properties, particularly adjoining residential properties to the north or south. The new development will not adversely impact on the streetscape or significance of the Crows Nest Neighbourhood Character Area.

The bulk and scale of the amended proposal is generally consistent with the intended future character envisaged in Council's controls and existing surrounding buildings. The proposal is also considered to be an appropriate transitional built form of appropriate residential density.

All other issues identified in the report or raised in the submissions have been addressed or found to be either acceptable or able to be managed via the imposition of conditions of development consent.

This assessment, having regard to the provisions of Section 4.15 of the Environmental Planning & Assessment Act, 1979 (as amended), this report has considered the concerns raised in the submissions as well as the performance of the application against Council's planning requirements. Following this assessment, the development application is supportable in the circumstances and is recommended for approval subject to the attached as recommended conditions of development.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)

THAT the North Sydney Local Planning Panel, under the delegation of the General Manager as the consent authority, assume the concurrence of the Director General of the Department of Planning and invoke the provisions of Clause 4.6 with regard to the exception to the development standard for Building Height, grant consent to Development Application No. **205/21** for demolition of existing dwellings, excavation and construction of a multi dwelling housing development comprising ten (10) townhouses and basement car park and landscaping works at land known as 23-27 Wheatleigh Street, Crows Nest subject to the attached recommended conditions of development consent.

Kim Rothe
ASSESSMENT OFFICER

David Hoy
TEAM LEADER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES

NORTH SYDNEY COUNCIL
CONDITIONS OF DEVELOPMENT APPROVAL
23-27 WHEATLEIGH STREET, CROWS NEST
DEVELOPMENT APPLICATION NO. 205/21

A. Conditions that Identify Approved Plans

Development in Accordance with Plans/Documentation

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Dated	Issue	Title	Drawn by	Received
DA00	25 November 2021	5	Cover Sheet	Corben Architects	12 January 2022
DA01	25 November 2021	5	Site Analysis	Corben Architects	12 January 2022
DA02	25 November 2021	5	Site Plan	Corben Architects	12 January 2022
DA03	25 November 2021	5	Demolition Plan	Corben Architects	12 January 2022
DA04	25 November 2021	5	Level 1 Plan	Corben Architects	12 January 2022
DA05	25 November 2021	5	Level 2 Plan	Corben Architects	12 January 2022
DA06	25 November 2021	5	Level 3 Plan	Corben Architects	12 January 2022
DA07	25 November 2021	5	Level 4 Plan	Corben Architects	12 January 2022
DA08	25 November 2021	5	Roof Plan	Corben Architects	12 January 2022
DA09	25 November 2021	5	North and South Elevation	Corben Architects	12 January 2022
DA10	25 November 2021	5	East and West Elevation	Corben Architects	12 January 2022
DA11	25 November 2021	5	Sections 1&2	Corben Architects	12 January 2022
DA12	25 November 2021	5	Sections 1&2	Corben Architects	12 January 2022
DA28	25 November 2021	5	Cut and Fill Plan	Corben Architects	12 January 2022
DA29	25 November 2021	5	Cut and Fill Sections	Corben Architects	12 January 2022
Plan Set 18 Pages 1-18	25 November 2021	C	Concept Design Presentation L-400 Plant Schedule Ground Floor L-401 Softworks Plan Ground Floor	Arcadia	12 January 2022
		3.2	Preliminary Arboricultural Impact Assessment and Tree Protection Plan	Vertical Tree Management and Consultancy	12 January 2022

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

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Plans on Site

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

Sydney Water Requirements

- A3. Sydney Water provides the following information to assist in planning the servicing needs of the proposed development.

Water Servicing

- Potable water servicing should be available via 100mm C/CL watermain (laid in 1923) on Wheatleigh Street.
- Amplifications, adjustments, and/or minor extensions may be required.

Wastewater Servicing

- Wastewater servicing should be available via a 225mm VC wastewater main (laid in 1925) within the property boundary.
- Amplifications, adjustments, and/or minor extensions may be required.
- We recommend that the applicant applies to Sydney Water as soon as feasible to assess whether any adjustments/location assessments for the wastewater main are required.

The applicant is to ensure that all requirements of Sydney Water are met in the construction of the development.

(Reason: To ensure that the form of the development undertaken is in accordance with the requirements of Sydney Water Authority)

Ausgrid Requirements

- A4. Ausgrid provides the following information to assist in planning the servicing needs of the proposed development.

Ausgrid does not have any objections for the proposed development. The applicant/developer should note the following comments below regarding any proposal within the proximity of existing electrical network assets.

Overhead Powerlines

Safe Work NSW Document – Work Near Overhead Powerlines: Code of Practice, outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction. Special consideration should be given to the positioning and operating of cranes and the location of any scaffolding.

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au.

It remains the responsibility of the developer and relevant contractors to verify and maintain these clearances onsite.

“Should the existing overhead mains require relocating due to the minimum safety clearances being compromised in either of the above scenarios, this relocation work is generally at the developers cost.

It is also the responsibility of the developer to ensure that the existing overhead mains have sufficient clearance from all types of vehicles that are expected be entering and leaving the site.”

Underground Cables

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safe work Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

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The applicant is to ensure that all requirements of Ausgrid are met in the construction of the development.

(Reason: To ensure that the form of the development undertaken is in accordance with the requirements of Ausgrid Authority)

B. Matters to be Completed before the lodgement of an Application for a Construction Certificate

Construction Management Program – North Sydney Council Traffic & Transport Operations Division Approval

- B1. A Construction Management Program prepared by a suitably qualified and experienced traffic consultant must be submitted for consideration by the North Sydney Traffic Committee and approved in writing by North Sydney Council's Traffic Division PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property will require appropriate approvals prior to any work commencing. At a minimum, the Construction Management Program must specifically address the following matters:
- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated temporary construction site driveway entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways and footways;
 - ii. The proposed signage for pedestrian management to comply with the relevant Australian Standards, including pram ramps;
 - iii. Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site;
 - iv. The locations of any proposed Work Zones in the frontage roadways (to be approved by Council's Traffic Committee);
 - v. Locations of hoardings proposed;
 - vi. Location of any proposed crane standing areas;
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected; and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
 - b) A detailed heavy vehicle access route map through the Council area to Arterial Roads. Provision is to be made to ensure through traffic is maintained at all times.
 - c) The proposed phases of works on the site, and the expected duration of each phase.

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- d) How access to neighbouring properties will be maintained at all times and the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of process.
- e) The road is not to be used as a waiting area for trucks delivering to or awaiting pick up of materials.
- f) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer and must not involve any permanent or temporary encroachment onto Council's property.
- g) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of "B" class hoardings over footpaths and laneways.
- h) A Waste Management Plan. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process.

All traffic control work and excavation, demolition and construction activities must be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved Program. A certificate of compliance with this condition must be obtained from Council's development engineers. The certificate and the approved Construction Management Program must be submitted as part of the documentation lodged with the application for approval of a construction certificate. A copy of the approved Construction Management Program and any conditions imposed on that Program, must be kept on the site at all times and made available to any officer of Council upon request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.

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- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction Management Plan be lodged with Council as early as possible, as **a minimum six (6) weeks' assessment period** is required, including referral to the Traffic Committee.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)

Dilapidation Report Damage to Public Infrastructure

- C1. The landscaping Plans prepared by Arcadia Revision C dated 25 November 2021 and associated Arborist Report are to be revised to the satisfaction of Council's Landscaping Officer
- The revised landscaping suite is to be amended to rationalise planting and incorporate further larger canopy tree plantings particularly down the eastern and southern elevation
 - 1 x updated arborist report clearly assessing all and only the trees impacted by proposed works (including street trees in Donnelly Street should there be infrastructure works required in Donnelly Street to achieve stormwater disposal. The inclusion of assessments for trees no longer standing, or no longer impacted by amended works should also be revised. The amended report shall include a plan with numbered trees and TPZ & SRZ marked, and TPMP for currently proposed works.
 - Reference is made to existing levels being retained within the rear setback but a 1500mm wide planter would appear to be built along the rear boundary. Confirmation of levels is required (none appear to be shown on drawings) and it is likely that this planter may need to be extended to 2000mm minimum width to accommodate tree planting within.
 - A qualified (AQ5) arborist shall be appointed to oversee all works within the TPZ of any protected tree
 - All trees to be retained shall be protected in accordance with AS4970.
 - Sensitive construction techniques including hand excavation, pier and beam, flexible location of piers/footings shall be carried out within the TPZ of any protected tree, no roots greater than 40mm shall be cut
 - The TPMP detailed in the final (yet to be approved) arborist report shall be strictly adhered to.

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Details demonstrating compliance with these requirements must be submitted to Council for *approval* by Councils Landscaping Officer prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure landscaping scheme is complete and reviewed by Council Landscaping Officer prior to final approval for construction)

Dilapidation Report Damage to Public Infrastructure

- C2. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Report Private Property (Excavation)

- C3. A full dilapidation survey and report on the visible and structural condition of all neighbouring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

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All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by the developer or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: To record the condition of property/i.e., prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C4. A photographic survey and dilapidation report of adjoining properties Nos. 22-24 Donnelly Road and 21 & 29 Wheatleigh Street, Crows Nest detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, **SHALL BE** submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Shoring for Adjoining Property

- C5. Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended purpose by an appropriately qualified and practising structural engineer, showing all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. A copy of this documentation must be provided to the Council for record purposes.

Note: Approval of engineering drawings for shoring works to be located on adjoining property by the Certifying Authority does not authorise a trespass on private or public land. All relevant permissions/legal rights must be obtained to undertake any works on adjoining land.

(Reason: To ensure the protection of existing public infrastructure and adjoining properties)

Structural Adequacy of Adjoining Properties - Excavation Works

- C6. A report prepared by an appropriately qualified and practising structural engineer detailing the structural adequacy of adjoining properties Nos. 22-24 Donnelly Road and 21 & 29 Wheatleigh Street, Crows Nest, which certifies their ability to withstand the proposed excavation and outlines any measures required to be implemented to ensure that no damage will occur to adjoining properties during the course of the works, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The measures outlined in the certified report must be complied with at all times.

(Reason: To ensure the protection and structural integrity of adjoining properties in close proximity during excavation works)

Geotechnical Report

- C7. Prior to issue of any Construction Certificate a Geotechnical/Civil Engineering report must be prepared which addresses at a minimum (but is not limited to) the following:
- a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0 m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;

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- b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;
- c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);
- d) the existing groundwater levels in relation to the basement structure, where influenced;
- e) the drawdown effects on adjacent properties (including road reserve), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and
- f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

- a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;

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- b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;
- d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;
- e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and
- f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The report, satisfying the requirements of this condition, must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

(Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process)

Sediment Control

- C8. Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication *Managing Urban Stormwater: Soils and Construction* (4th edition, Landcom, 2004) commonly referred to as the "Blue Book" or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose:

- a) All details of drainage to protect and drain the site during the construction processes;
- b) All sediment control devices, barriers and the like;

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- c) Sedimentation tanks, ponds or the like;
- d) Covering materials and methods; and
- e) A schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.
- f) Methods for the temporary and controlled disposal of stormwater during construction.

All works must be undertaken in accordance with the approved Sediment Control plan.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Waste Management Plan

- C9. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
 - b) The design of the on-site waste storage and recycling area; and
 - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

External Colours and Finishes

- C10. The external colours and finishes shall match those as existing and/or be compatible with surrounding development. A schedule of external colours and finishes must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that the completed colours and finishes of the works are compatible with surrounding development)

Reflectivity Index of Glazing

- C11. The reflectivity index (expressed as a per centum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

(Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development)

Roofing Materials - Reflectivity

- C12. Roofing materials must be factory pre-finished with low glare and reflectivity properties to be compatible with the colours of neighbouring buildings. The selected roofing material must not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development)

No External Service Ducts

- C13. Service ducts must be provided within the building to keep external walls free of plumbing, drainage or any other utility installations. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure quality built form of the development)

Work Zone

- C14. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Work Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Work Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

- C15. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure interface between property and public land remains uniform)

Basement Car Park to comply with relevant standards

- C16. The basement layout must comply with all requirements of Australian Standard AS2890.1. Certification from a suitably qualified and practicing Civil Engineer that the basement design will comply with the requirements of the Australian Standard must be provided to the Certifying Authority for approval prior to issue of any Construction Certificate.

(Reason: To ensure the basement layout complies with relevant standards)

Accessible parking spaces to be provided

C17. A total of two (2) accessible parking spaces shall be provided as part of the total car-parking requirements. Consideration must be given to the means of access from the carparking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)

Required Infrastructure Works –Roads Act 1993

C18. Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. An application must be made to Council on the "To Satisfy DA Consent Condition" application form with payment of the adopted assessment/inspection fees. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:

Road Works

- a) construction of a fully new replacement concrete footpath is required across the entire site frontage in Wheatleigh Street. A longitudinal section is required along the footpath property boundary at a scale of 1:50 extending 5m past the property boundary lines. The footpath shall be designed (at a single straight grade of maximum 3% falling to grass verge) so that it is uniform without showing signs of dipping or rising particularly at entrances.
- b) reconstruction of the carriageway shoulder will be required, extending out a minimum 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new kerb/gutter and layback works.
- c) construction of a fully new kerb and gutter is required across the entire site frontage in Wheatleigh Street. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- d) cross sections at a scale of 1:50 along the centre-line of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.

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- e) All redundant laybacks and crossovers are to be removed and reconstructed as upright kerb/gutter and grass verge, as appropriate.

Drainage Works

Connection of the site stormwater system must be made via a private pipeline under the footpath in Wheatleigh Street and Donnelly Road and connect via gravity to an existing pit in the vicinity of the frontage of 24A Donnelly Road. To accommodate this requirement, the following drainage infrastructure works must be carried out on Council property at the Applicants expense: -

- a) compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code.
- b) construction of standard junction pits in the footpath area at every bend in the private pipeline. The pit must be constructed in accordance with Councils "Infrastructure Specification for Roadworks, Drainage and Miscellaneous Works".
- c) The developer shall be responsible for carrying out any service investigations to allow a gravity connection.
- d) reconstruction of the existing kerb inlet pit fronting 24A Donnelly Road will be required, should the integrity of the pit be comprised by the pipe connection into the pit.
- e) reconstruction of the kerb/gutter, grass verge, footpath, laybacks, crossovers, road shoulder and grass verge, where removal was required to construct the new pipeline.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

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Note: *A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Obtain Driveway Crossing and associated works permit

C19. Prior to the issue of the Construction Certificate, North Sydney Council must issue the applicant with a driveway crossing and road infrastructure works **permit** to suit the approved off-street parking facilities. To obtain the permit, an application must be made to Council on a 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable permit issue.

The civil design drawings must include the following at a minimum : -

- a) the vehicular access way must comply with AS 2890.1 and Council's current Vehicular Access Application Guidelines and Specification (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or parking floor;
- b) all redundant layback crossings must be reinstated as kerb/gutter, footpath, road shoulder and grass verge;
- c) the maximum width of the vehicular layback must be 4.0 metres (including the wings);
- d) the vehicle crossing (section over the footpath between the property boundary and grass verge) must be designed at a single crossfall grade of 3%, falling towards the kerb/gutter.
- e) The driveway crossing (section over the grass verge between back of the layback and footpath) must be designed on a single straight grade;
- f) the gutter levels and boundary footpath levels must match the existing levels and shall not be altered;

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- g) the works will require reconstruction of the carriageway shoulder extending out 600mm from the gutter lip in AC10 - 50mm thick, adjacent to all new gutter works, layback, kerb/gutter;
- h) any twisting of driveway access must occur entirely within the subject property;
- i) all inspection openings, utility services must be adjusted to match the proposed driveway levels;
- j) sections along centre-line and extremities are required at a scale of 1:50 to be taken from the centre-line of the roadway through to the parking area itself and must include all changes of grade and levels both existing and proposed;
- k) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter; must include all changes of grade and levels both existing and proposed;
- l) a longitudinal section along the footpath property boundary at a scale of 1:50 is required; must include all changes of grade and levels both existing and proposed;
- m) the sections must show the calculated clearance to the underside of any overhead structure;
- n) all details of internal ramps between parking levels; and
- o) a swept path analysis is required demonstrating that an 85th percentile vehicle can manoeuvre in and out of each parking spaces in accordance with AS 2890.1 2004 "Off Street Parking".

The permit must be granted by Council prior to the issue of any Construction Certificate.

All driveway and infrastructure works on the road reserve must proceed in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified on the permit. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained prior to its issue, is referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Management and Disposal Design Plan – Construction Issue Detail

- C20. Prior to issue of any Construction Certificate, a site drainage management plan must be prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council:

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- a) compliance with BCA drainage requirements, Councils Engineering Performance guide and current Australian Standards and guidelines, such as AS/NZ3500.3.2 1998, National Plumbing and Drainage Code;
- b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to Donnelly Road;
- c) the stormwater drainage system shall be designed for an average recurrence interval (A.R.I) of 1 in 20 years;
- d) all redundant stormwater pipelines within the footpath area shall be removed and footpath and kerb shall be reinstated;
- e) any proposed fence/building structure is to be constructed so as not to impede the natural overland flow;
- f) provision is to be made for the collection and disposal in an approved manner of any overland flow entering the subject property or concentrated as a result of the proposed works.
- g) surface inlet pits shall be located to catch surface flows and shall be provided at all pipe junctions, changes in pipe direction exceeding 45 degrees, prior to connection to the public drainage system and shall be of sufficient size to accept the flow.
- h) all sub-soil seepage drainage shall be discharged via a suitable silt arrester pit. Details of all plans certified as being adequate for their intended purpose and compliant with the provisions of AS3500.3.2 by an appropriately qualified and practising civil engineer shall be submitted with the application for a Construction Certificate.
- i) all stormwater collected within the subject property must be directed to an isolation pit located entirely within the boundaries of the property no. 31 Wheatleigh Street, Crows Nest;
- j) all stormwater collected in the isolation pit within 31 Wheatleigh Street, Crows Nest must be conveyed in a controlled manner by gravity via a private underground pipeline with a direct connection to the newly constructed grated inlet gully pit fronting 24B Donnelly Road;
- k) the proposed isolation pits must have a solid fixed lid;
- l) all stormwater discharging from the proposed isolation pit within the property into the private underground pipeline must be at a maximum discharge rate of 22 l/s;

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- m) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.
- n) provide subsoil drainage to all necessary areas with pump out facilities as required.

A site drainage management plan which complies with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure controlled stormwater management and disposal without nuisance)

On-Site Stormwater Detention

- C21. On site detention must be provided to ensure that the maximum discharge of stormwater collected from the undeveloped site, which would occur during a 1 in 5 year storm of 1-hour duration is not exceeded. All other stormwater run-off from the site for all storms up to a 1 in 20 year storm event is to be retained on the site for gradual release to the kerb and gutter or piped drainage system. Provision is to be made for satisfactory overland flow should a storm in excess of the above parameters occur.

For small areas up to 0.5 hectares, determination of the require cumulative storage may be calculated by the mass curve technique as detailed in Technical Note 1, Chapter 14 of the Australian Rainfall and Runoff Volume 1, 1987 Edition.

Engineering calculations, design and certification complying with this condition must be provided by an appropriately qualified and practising Civil Engineer and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded)

On-Site Rainwater Retention System

- C22. On site rainwater retention must be provided, water is to re-used for toilet flushing and irrigation. Any overflow is to be directed into the on-site detention tank. The completed works shall be certified as compliant with Australian Standard 3500.3.2, National Plumbing and Drainage Code and Sydney Water regulations upon completion.

(Reason: To ensure appropriate provision is made for the management of stormwater generated by the development, and to ensure that public infrastructure in Council's care and control is not overloaded)

Floor Levels for Flooding .

- C23. Floor levels adjacent to overland flow path, are to be minimum 500mm above the 1 in 100 year flood level. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Prevention of damage to dwellings as a result of flood events)

Pump-Out System Design for Stormwater Disposal

- C24. The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria: -
- a) the pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm;
 - b) the pump system shall be regularly maintained and serviced, every six (6) months; and
 - c) any drainage disposal to the street gutter from a pump system, must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Engineering details demonstrating compliance with these criteria, and certified by an appropriately qualified and practising civil engineer shall be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure adequate provision is made for the discharge of sub-surface stormwater from the excavated parts of the site)

Bond for Damage and Completion of Infrastructure Works - Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

- C25. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$110,000.00 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,

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- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with this consent.
- c) remedying any defects in any such public work that arise within six months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee).

The security will be refundable following the expiration of six months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following:

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Tree Bond for Public Trees

C26. A Security Bond of \$25,000.00 for protection of trees in public places shall be deposited with Council prior to the issue of a Construction Certificate. (See schedule below).

If any tree is removed or damaged Council shall deduct from this Bond from the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the Security Bond for that tree will be forfeited to Council and used to provide replacement street plantings.

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SCHEDULE

- T3 *Schinus molle*, street tree planted in the council verge in front of 25 Wheatleigh St, Crows Nest
- T5 *Lagerstroemia indica*, street tree planted in the council verge in front of 27 Wheatleigh St
- 1 x unassessed *Lagerstroemia indica* street tree planted in the council verge in front of 21 Wheatleigh St,

All trees shall be retained and protected in accordance with AS4970, have 1.8m high steel mesh tree protection fencing installed

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Protection of Trees

- C27. The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 - Protection of trees on development sites:

Tree	Location	Height (m)
T3 <i>Schinus molle</i>	street tree planted in the council verge in front of 25 Wheatleigh St, Crows Nest	7m
T5 <i>Lagerstroemia indica</i>	street tree planted in the council verge in front of 27 Wheatleigh St	10m
<i>Lagerstroemia indica</i>	street tree planted in the council verge in front of 21 Wheatleigh St	6m

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

Garbage and Recycling Facilities

C28. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

Asbestos Material Survey

C29. A report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Noise from Plant and Equipment

C30. The use of all plant and equipment installed on the premises must not:

- (a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.
- (b) Cause "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

"boundary" includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Vibration from Plant and Equipment

C31. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in "Assessing Vibration: a technical guideline" issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Certifying Authority, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

"affected receiver" includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship and commercial premises and such other affected receiver as may be notified by the Council in writing.

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“boundary” includes any window or elevated window of an affected residence.

“contemporaneously” means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

Air Conditioners in Residential Premises

C32. The use of any air conditioner installed on the premises must comply with the requirements of the Protection of the Environment Operations (Noise Control) Regulations 2008 and State Environmental Planning Policy (Infrastructure) 2007 and must not:

- (a) emit a noise that is audible within a habitable room in any affected residence (regardless of whether any door or window to that room is open);
 - (i) before 8.00 am and after 10.00 pm on any Saturday, Sunday or Public Holiday; or
 - (ii) before 7.00 am or after 10.00 pm on any other day
- (b) cause an LAeq(15min) which exceeds the RBL background noise level by more than 5dB when measured at the boundary of any affected residence. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy will be applied.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain residential amenity)

Outdoor Lighting

C33. All outdoor lighting must comply with, where relevant AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

Construction Noise Management Plan

- C34. A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following:
- (a) Identification of noise affected receivers near to the site.
 - (b) A prediction as to the level of noise impact at noise affected receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
 - (c) Details of work schedules for all construction phases;
 - (d) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the Environment Protection Authority's Interim Construction Noise Guideline ("ICNG").
 - (e) Representative background noise levels should be submitted in accordance with the ICNG.
 - (f) Confirmation of the level of community consultation that is to be undertaken by occupants at noise affected receivers likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
 - (g) Confirmation of noise monitoring methodology that is to be undertaken during the noise intensive stages of work including details of monitoring to be undertaken at the boundary of any noise affected receiver.
 - (h) What course of action will be undertaken following receipt of a complaint concerning offensive noise?
 - (i) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupants at noise affected receivers.
 - (j) Details of selection criteria for any plant or equipment that is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on occupants at noise affected receivers and other less intrusive technologies available; and
 - (k) Details of site induction to be carried out for all employees and contractors undertaking work at the site.

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“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected residence.

The Construction Noise Management Plan and must be submitted to the Principal Certifying Authority and a copy provided to Council prior to the issue of the Construction Certificate.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

Section 7.11 Development Contributions

C35. A monetary contribution pursuant to the provisions of Section 7.11 of the Environmental Planning and Assessment Act 1979, in accordance with the North Sydney Council’s Contribution Plan for the public amenities/services detailed in Column A below and, for the amount detailed in Column B below, must be paid to Council.

A	B
Open space and recreation facilities:	\$77,090.24
Public domain:	\$42,913.85
Active transport:	\$2,449.36
Community facilities:	\$15,483.94
Plan administration and management:	\$2,062.62
Total:	\$140,000.00

Indexation

The monetary contribution required under this consent will be indexed at the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of Payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council’s Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council’s website at www.northsydney.nsw.gov.au.

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

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Security Deposit/Guarantee Schedule

- C36. All fees and security deposits/guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security Deposit/Guarantee	Amount (\$)
Street Tree Bond (on Council Property)	\$25,000.00
Infrastructure Damage Bond	\$45,000.00
Drainage Construction Bond	\$65,000.00
TOTAL BONDS	\$135,000.00

Note: The following fees applicable

Fees	
S7.11 Development Contributions	\$140,000.00
TOTAL FEES	\$140,000.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

BASIX Certificate

- C37. Under clause 97A(3) of the Environmental Planning and Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in BASIX Certificate No. 1200579M_02 for the development are fulfilled. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the proposed development will meet the Government's requirements for sustainability and statutory requirements)

D. Prior to the Commencement of any Works (and continuing where indicated)

Protection of Trees

- D1. All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

(Reason: To ensure compliance with the requirement to retain significant planting on the site)

Temporary Fences and Tree Protection

- D2. All protected trees on-site that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builders' waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works:

(Reason: To protect the trees to be retained on the site during construction works)

Public Liability Insurance - Works on Public Land

- D3. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

Notification of New Addresses

- D4. Prior to the commencement of any building works, an application must be made and written confirmation received from North Sydney Council of the allocated street address (house number) and/or unit numbers of the completed project.

To assist Council, a plan for unit numbering should be submitted for concurrence. These details will be recorded in Council records and must be displayed at the property in accordance with the provisions of the applicable Australian Standard relating to rural and urban addressing. A copy of the allocation confirmation must be submitted to the Certifying Authority with the application for a Construction Certificate.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties)

Sydney Water Approvals

- D5. Prior to the commencement of any works, the approved plans must be submitted to Sydney Water to determine whether the development application will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The Certifying Authority must ensure that Sydney Water has appropriately stamped the plans before the commencement of building works.

Notes: **Sydney Water Building Plan Approvals** can be obtained from the Sydney Water Tap in™ online service. Building plans must be submitted to the Tap in™ to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met. For further information visit <http://www.sydneywater.com.au/tapin/index.htm> or call 13 000 TAP IN (1300 082 746) for further information.

(Reason: To ensure compliance with Sydney Water requirements)

Asbestos Material Survey

- D6. Prior to the commencement of any works, a report must be prepared by a suitably qualified person in relation to the existing building fabric to be demolished and/or disturbed identifying the presence or otherwise of asbestos contamination and, if asbestos contamination is present, making recommendations as to the work required to safely address the contamination.

Any demolition works or other works identified in the report as having to be carried out must be carried out in accordance with the recommendations of the report and the following:

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- a) the removal of asbestos must be undertaken by a WorkCover licensed contractor;
- b) all removal must be in strict accordance with the requirements of the WorkCover Authority in relation to the removal, handling and disposal of material containing asbestos and any Work Safe Australia requirements.
- c) during the removal of any asbestos a sign stating "DANGER ASBESTOS REMOVAL IN PROGRESS" must be erected in a visible position at the boundary of the site; and
- d) Waste disposal receipts must be provided to the Certifying Authority as proof of correct disposal of asbestos laden waste.

The report must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the report, and other plans, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the long-term health of workers on site and occupants of the building is not put at risk unnecessarily)

Commencement of Works' Notice

- D7. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

E. *During Demolition and Building Work***Cigarette Butt Receptacle**

- E1. A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

(Reason: To ensure adequate provision is made for builders' waste)

Parking Restrictions

- E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

Road Reserve Safety

- E3. All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site.

Where public infrastructure is damaged, repair works must be carried out in when and as directed by Council officers (at full Developer cost). Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (1996) "Traffic Control Devices for Work on Roads". **If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.**

(Reason: Public Safety)

Temporary Disposal of Stormwater Runoff

- E4. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Service Adjustments

- E5. Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the person acting on the consent and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the Applicants full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services at the appropriate stage of the development (including water, phone, gas and the like). Council accepts no responsibility whatsoever for any matter arising from its approval of this application involving any influence upon utility services provided by another authority.

(Reason: To ensure the service requirements are met)

Council Inspection of Public Infrastructure Works

- E6. During the works on public infrastructure reverting to Council's care and control, Council's development engineer must undertake inspections of the works at the following hold points:
- a) Formwork for footpath, layback, kerb/gutter etc
 - b) Formwork and reinforcement for in-situ stormwater pits
 - c) Pipe connections prior to back filling.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Progress Survey

- E7. In order to ensure compliance with approved plans, a Survey Certificate, to Australian Height Datum, must be prepared by a Registered Surveyor as follows:
- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries;
 - b) at the completed height of the building, prior to the placement of concrete inform work, or the laying of roofing materials; and
 - c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Certifying Authority for approval at the time of carrying out relevant progress inspections.

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In the event that such survey information is not provided or reveals discrepancies between the approved plans and the proposed works, all works, save for works necessary to bring the development into compliance with the approved plans, must cease. Works may only continue upon notification by the Certifying Authority to the Applicant that survey information (included updated survey information following the carrying out of works to comply with the approved plans) complies with this condition.

(Reason: To ensure compliance with approved plans)

Dust Emission and Air Quality

E8. The following must be complied with at all times:

- (a) Materials must not be burnt on the site.
- (b) Vehicles entering and leaving the site with soil or fill material must be covered.
- (c) Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction.
- (d) Odour suppression measures must also be carried out where appropriate so as to prevent nuisance occurring at adjoining properties.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Noise and Vibration

E9. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

Compliance with Construction Noise Management Plan

E10. All works conducted on site which form part of this development must be carried out in accordance with the submitted Construction Noise Management Plan submitted with the Construction Certificate and all conditions of consent.

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

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Developer's Cost of Work on Council Property

E11. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

No Removal of Trees on Public Property

E12. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)

Protection of Trees

E13. All trees required to be retained, as part of this consent must be protected from any damage during construction works in accordance with AS4970-2009. All recommendations contained within the tree report must be implemented for the duration of the works.

In the event that any tree required to be retained is damaged during works on the site, notice of the damage must be given to Council forthwith.

Notes:

- a. If the nominated tree is damaged to a significant degree or removed from the site without prior written approval being obtained from Council, the issuing of fines or legal proceedings may be commenced for failure to comply with the conditions of this consent.
- b. An application to modify this consent pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 will be required to address the non-compliance with any of the conditions of consent relating to the retention of nominated trees, and Council may require tree replenishment.

(Reason: Protection of existing environmental infrastructure and community assets)

Special Permits

E14. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours' notice is required for any permit:

1) **On-street mobile plant**

E.g., cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

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Construction Hours

- E15. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Location	Standard Construction Hours	
	Day	Hours
All Other Zones	Monday - Friday	7.00 am - 5.00 pm
	Saturday	8.00 am - 1.00 pm
	Sunday, Public holiday	No work permitted

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP&A Act 1979 and in accordance with Council's adopted Compliance and Enforcement Policy.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Out-of-Hours' Work Permits

- E16. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979.

Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
 - the erection of awnings,
 - footpath, road and other infrastructure works which cannot be carried out for public convenience reasons within normal hours,
 - the erection and removal of hoardings and site cranes, and

- craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include;
- extended concrete pours
 - works which are solely to convenience the developer or client, and
 - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at www.northsydney.nsw.gov.au.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Installation and Maintenance of Sediment Control

- E17. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils and Construction (4th edition, Landcom, 2004), commonly referred to as the “Blue Book” and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E18. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Site Amenities and Facilities

- E19. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of workplace determines the type of amenities required.

Further information and details can be obtained from the Internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Health and Safety

- E20. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at www.workcover.nsw.gov.au.

(Reason: To ensure the health and safety of the community and workers on the site)

Archaeological Discovery During Works

- E21. Should any historical or Aboriginal relic be discovered on the site during demolition, excavation or site preparatory works, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW must be informed in accordance with the provisions of the Heritage Act 1977 and/or National Parks and Wildlife Act, 1974. Works must not recommence until such time as approval to recommence is given in writing by Council or a permit from the Director of the NPWS is issued.

(Reason: To prevent the unnecessary destruction or removal of unrecorded historical or Aboriginal relics)

Prohibition on Use of Pavements

- E22. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

Plant and Equipment Kept Within Site

- E23. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

(Reason: To ensure public safety and amenity on public land)

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Waste Disposal

E24. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

Asbestos Removal

E25. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

F. *Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation***National Construction Code**

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

Home Building Act

F2. 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) for which the *Home Building Act 1989* requires there to be a contract of insurance under Part 6 of that Act must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given North Sydney Council written notice of the contract of insurance being issued and of the following:

a) in the case of work for which a principal contractor is required to be appointed:

- i) the name and licence number of the principal contractor, and
- ii) the name of the insurer by which the work is insured under Part 6 of that Act, or

(b) in the case of work to be done by an owner-builder:

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- (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress such that the information submitted to Council in accordance with this conditions is out of date, work must cease and no further work may be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(Reason: Prescribed - Statutory)

Appointment of a Principal Certifying Authority (PCA)

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Construction Certificate

- F4. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Occupation Certificate

- F5. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

Critical Stage Inspections

- F6. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Commencement of Works

- F7. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least two (2) days' notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

Excavation/Demolition

- F8. 1) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
- 2) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- 3) Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F9. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.

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- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

(Reason: To ensure public safety and the proper management of public land)

Site Sign

- F10. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

G. *Prior to the Issue of an Occupation Certificate*

Landscaping

- G1. The landscaping shown in the approved landscape plan prepared by Arcadia must be installed completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

Infrastructure Repair and Completion of Works

- G2. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and

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- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of public assets)

Certification - Civil Works

- G3. An appropriately qualified and practising Civil Engineer must certify to the Certifying Authority that the stormwater drainage system is constructed in accordance with this consent and the provisions of the applicable Australian Standard. A copy of the certificate must be submitted to Council (if it is not the Certifying Authority) upon completion of the development works and prior to the issue of an Occupation Certificate.

(Reason: Compliance with the Consent)

Works as Executed Drawings and Video

- G4. A works-as-executed survey drawing (W.A.E.) of the completed stormwater drainage system must be obtained. The W.A.E. survey drawing must show the alignment, depth and grade of the stormwater drainage pipelines, pits and ancillary plumbing. The W.A.E. survey drawing must be reviewed by a qualified and practising civil engineer and certification provided to the Certifying Authority that the as-built system achieves the design intent of the plans approved with the Construction Certificate. Certification must be provided with the W.A.E. survey drawing to the Certifying Authority prior to the issue of an Occupation Certificate.

CCTV inspection of conduits shall be conducted in accordance with the Conduit Inspection Reporting Code of Australia WSA 05-2013.

The camera, transportation unit, distance measuring devices, illumination systems and ancillary equipment shall be used suitable for the conduit size, material and conditions under which the inspection is undertaken.

The camera shall be steerable and be able to negotiate bends within the drainage pipe. The use of a pushrod camera may only be acceptable for pipe diameters less than 150mm or where a steerable camera cannot navigate.

A colour camera shall be used which has remotely operated automatic and/or manual adjustment of the focus and iris to allow optimum picture quality to be achieved.

The camera lens shall be capable of viewing the extremities of the conduit and panning and or tilting to view the lateral connections and defects or features at and position around the conduit regardless of the direction of travel of the camera in the main conduit.

The adjustment of focus and iris shall provide a focal range from 15 mm to infinity. The distance along the conduit in focus from the initial point of observation shall be a minimum of four times the vertical height of the conduit.

Where required, specialised instruments, apparatus and/or software shall be used to facilitate measurement of parameters to determine acceptance. Hardware and software used in measuring the parameters shall be correctly calibrated for each application using the manufacturer's methods.

For circular or regular shaped conduits, the camera shall be positioned centrally, $\pm 10\%$ of the vertical and horizontal diameter, within the conduit.

A copy of the WAE survey drawing, certification and CCTV inspection footage must be submitted to the Council if it is not the Certifying Authority.

(Reason: Compliance with the Consent)

Covenant & Restriction (Stormwater Control Systems)

G5. An Instrument pursuant to Sections 88B and 88E of the *Conveyancing Act* 1919 and one copy must be submitted to Council in registrable form, providing for:

- a. a restriction as to user and positive covenant as to user as appropriate in favour of North Sydney Council burdening 29 Wheatleigh Street, Crows Nest requiring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, rainwater tank);
- b. North Sydney Council being nominated in the Instrument as the only party authorised to release, vary or modify the Instrument;
- c. the wording on the Instrument making reference to the Council file/s which hold:
 - (i) the Construction plans; and
 - (ii) the "Work-as-Executed" (as built) plans;

Upon Council being satisfied as to the terms of the Instrument, North Sydney Council's official seal will be affixed to these documents, prior to submission to the Land & Property Information Office for registration

The Instrument creating the restriction and/or covenant under ss 88B and 88E required by this condition of consent must be registered on the Title of the development site prior to the issue of an Occupation Certificate or commencement of use of the site, whichever is the earlier. Typical wording for the Instrument can be sourced from Council's "Specification for the Management of Stormwater".

Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of an Occupation Certificate.

All costs associated with the preparation, approval and registration of the Instrument required by this condition of consent must be borne by the person acting on this consent

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including the reasonable costs of Council in obtaining advice, negotiating the terms or otherwise facilitating the execution and registration of the required Instrument.

(Reason: Compliance and adequate maintenance of drainage system)

Damage to Adjoining Properties

- G6. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

Utility Services

- G7. All utility services shall be adjusted to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

Basement Pump-Out Maintenance

- G8. Prior to issue of an Occupation Certificate a Maintenance Regime must be prepared for the basement stormwater pump-out system and submitted to the Principal Certifying Authority for approval with the Occupation Certificate documentation. The regime must specify that the system is to be regularly inspected and checked by qualified practitioners.

The basement stormwater pump-out system must be maintained in accordance with the approved Maintenance Regime at all times.

(Reason: To ensure future provision for maintenance of the drainage system)

Asbestos Clearance Certificate

- G9. For building works where asbestos based products have been removed or altered, an asbestos clearance certificate signed by an appropriately qualified person (being an Occupational Hygienist or Environmental Consultant) must be submitted to and approved by the Certifying Authority (and a copy forwarded to Council if it is not the Certifying Authority) for the building work prior to the issue of any Occupation Certificate, the asbestos clearance certificate must certify the following:

- a) the building/land is free of asbestos; or
- b) the building/land has asbestos that is presently deemed safe.

The certificate must also be accompanied by tipping receipts, which detail that all asbestos waste has been disposed of at an approved asbestos waste disposal depot. If asbestos is retained on site the certificate must identify the type, location, use, condition and amount of such material.

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Note: Further details of licensed asbestos waste disposal facilities can be obtained from www.epa.nsw.gov.au.

(Reason: To ensure that building works involving asbestos based products are safe for occupation and will pose no health risks to occupants)

BASIX Completion Certificate

G10. In accordance with Clause 154C of the Environmental Planning and Assessment Regulation 2000, prior to issuing a final occupation certificate the Certifying Authority must apply to the Director-General for a BASIX completion receipt.

(Reason: To ensure compliance with the specified BASIX Certificate)

House Numbering (Dwellings)

G11. Prior to any Occupation Certificate being issued an application must be made to North Sydney Council for written confirmation, or allocation, of the street address(es) or apartment number(s) for the completed project in accordance with Council's Property Addressing Policy. These are the numbers that will be recorded in Council records and must be displayed at the property in accordance with the provisions of AS/NZS 4819:2011.

Note: If apartments are to be sold off the plan, the applicant must have written confirmation from Council of the address and apartment numbering if the apartment number is to be identified on the contract.

(Reason: To ensure that Council records are accurate, and that house numbering complies with the requirements of Council's House Numbering Policy. Proper house numbering also assists emergency services in readily locating properties.)

Damage to Adjoining Properties

G12. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:

- a) whether any damage to adjoining properties has occurred as a result of the development;
- b) the nature and extent of any damage caused to the adjoining property as a result of the development;
- c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
- d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
- e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

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The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner's property rights are protected in so far as possible)

Intercom

G13. An intercom system must be provided in a convenient location adjacent to the visitor parking entry to enable easier and safe access to visitor parking prior to issue of any occupation Certificate.

(Reason: To ensure convenient access is available for visitors to the building)

Sydney Water

G14. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

The Section 73 Certificate must be submitted to the Certifying Authority prior to the issue of the Certificate.

Notes: Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site www.sydneywater.com.au/customer/urban/index, or telephone 13 20 92.

Following application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

(Reason: To ensure compliance with the statutory requirements of Sydney Water)

Unpaved Verge

G15. The unpaved verge area must be constructed/reconstructed with an appropriate species of grass prior to completion of the works at no cost to Council.

(Reason: To ensure that community assets are presented in accordance with reasonable community expectations)

I. Ongoing/Operational Conditions**Minimum Headroom for Car Parking**

11. Minimum headroom of 2.2 m must be provided over all car-parking areas.

(Reason: To ensure compliance with relevant standards and provide appropriate headroom)

Single Occupancy

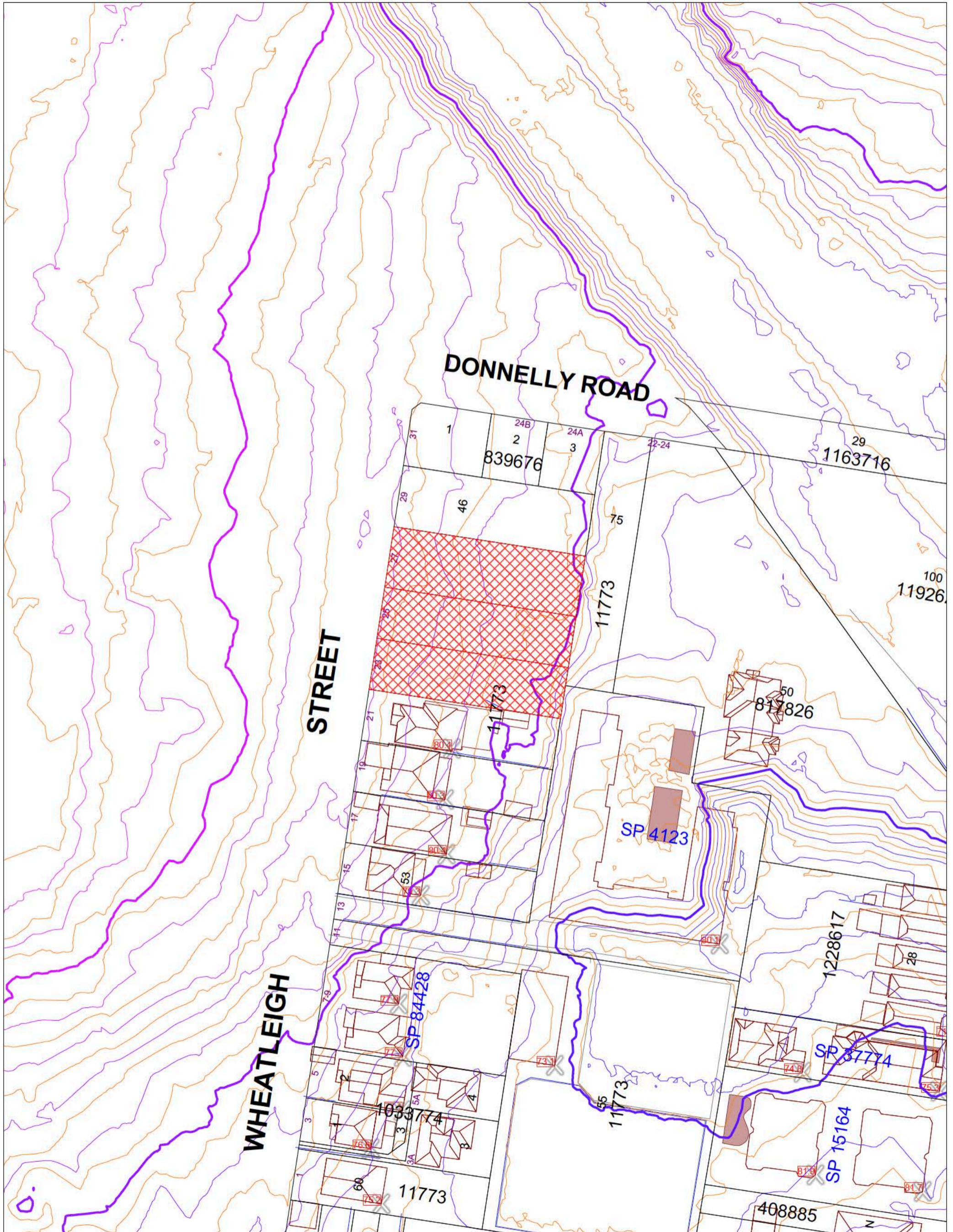
12. Nothing in this consent authorises the use of the premises other than for a single occupancy.

(Reason: To ensure compliance with the terms of this consent)

Use of Car Parking Spaces

13. Car parking spaces provided must only be used in conjunction with the approved uses contained within the development. Visitor parking facilities must be designated as common property on any strata plan. Visitor parking facilities must not at any time be allocated, sold, licensed or leased for the exclusive use of any owner or occupier or third party and must be retained as Common Property by the owner's corporation for use by building visitors.

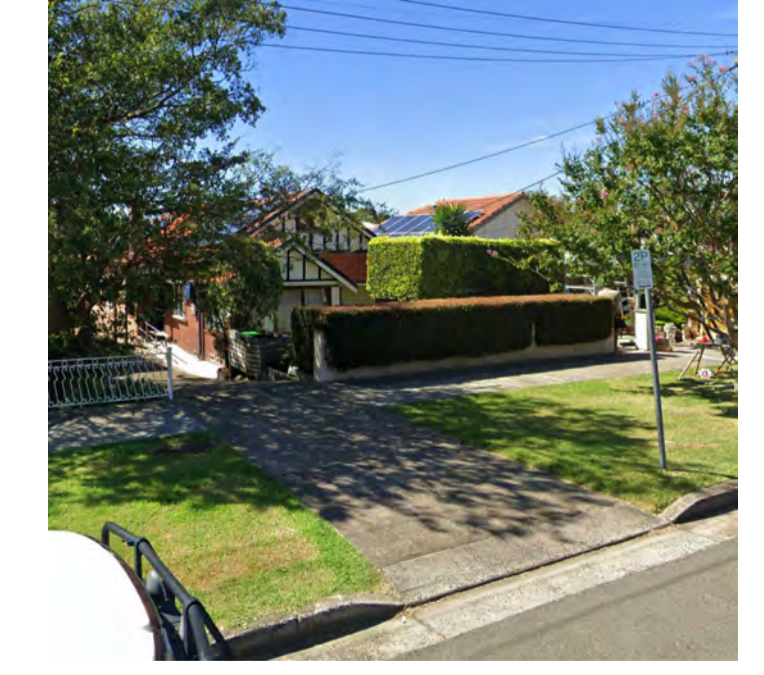
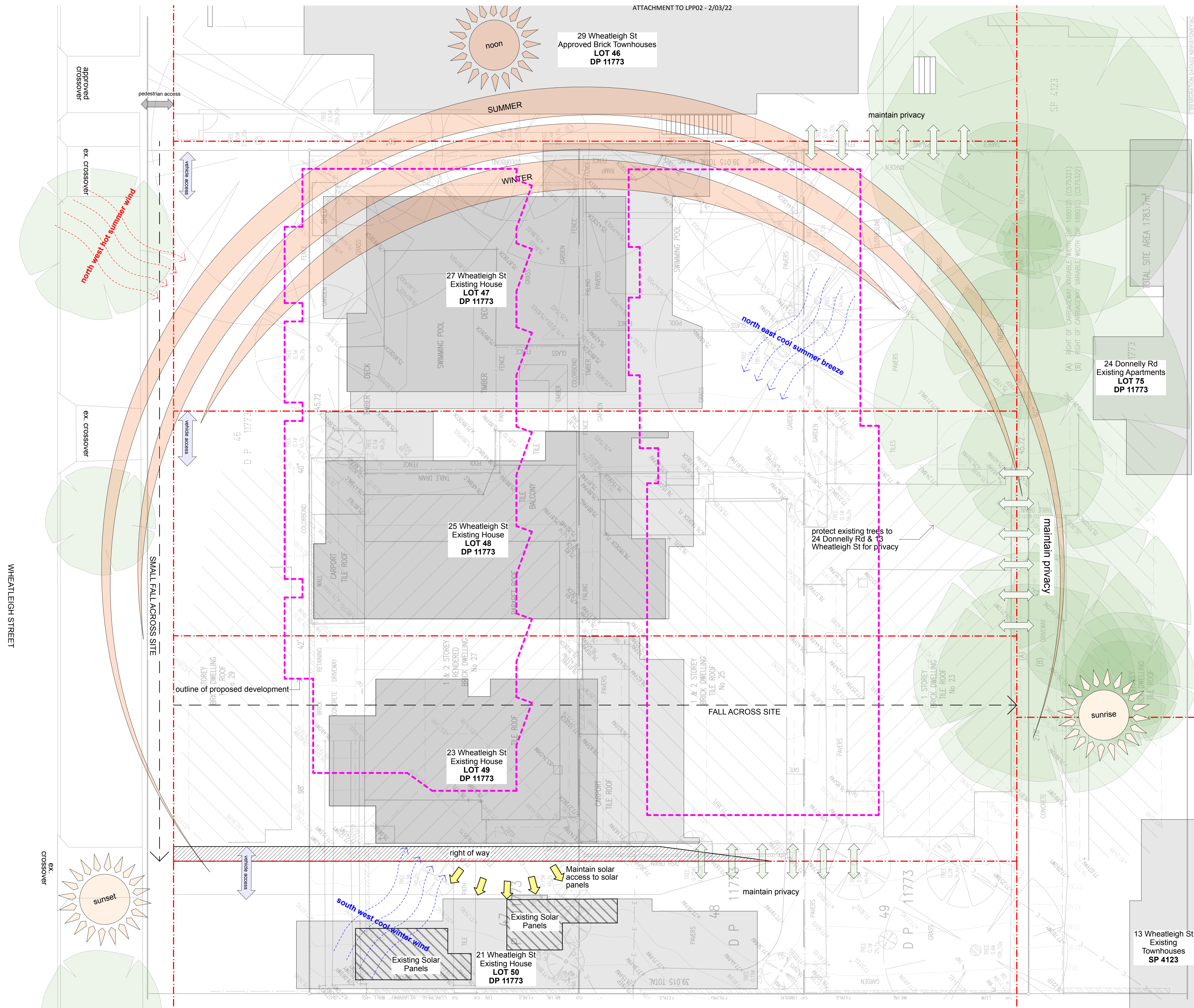
(Reason: To ensure that visitor parking is not allocated to building occupants and remains available on an ongoing basis)



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Further details can be obtained by calling (02) 9936 8100 or e-mail mapping@northsydney.nsw.gov.au.



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Revised	Date	Description
4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

file: MPWS6.2-211124 DA Amendments.plt
 print date & time: 25/11/21 @ 3:36 pm

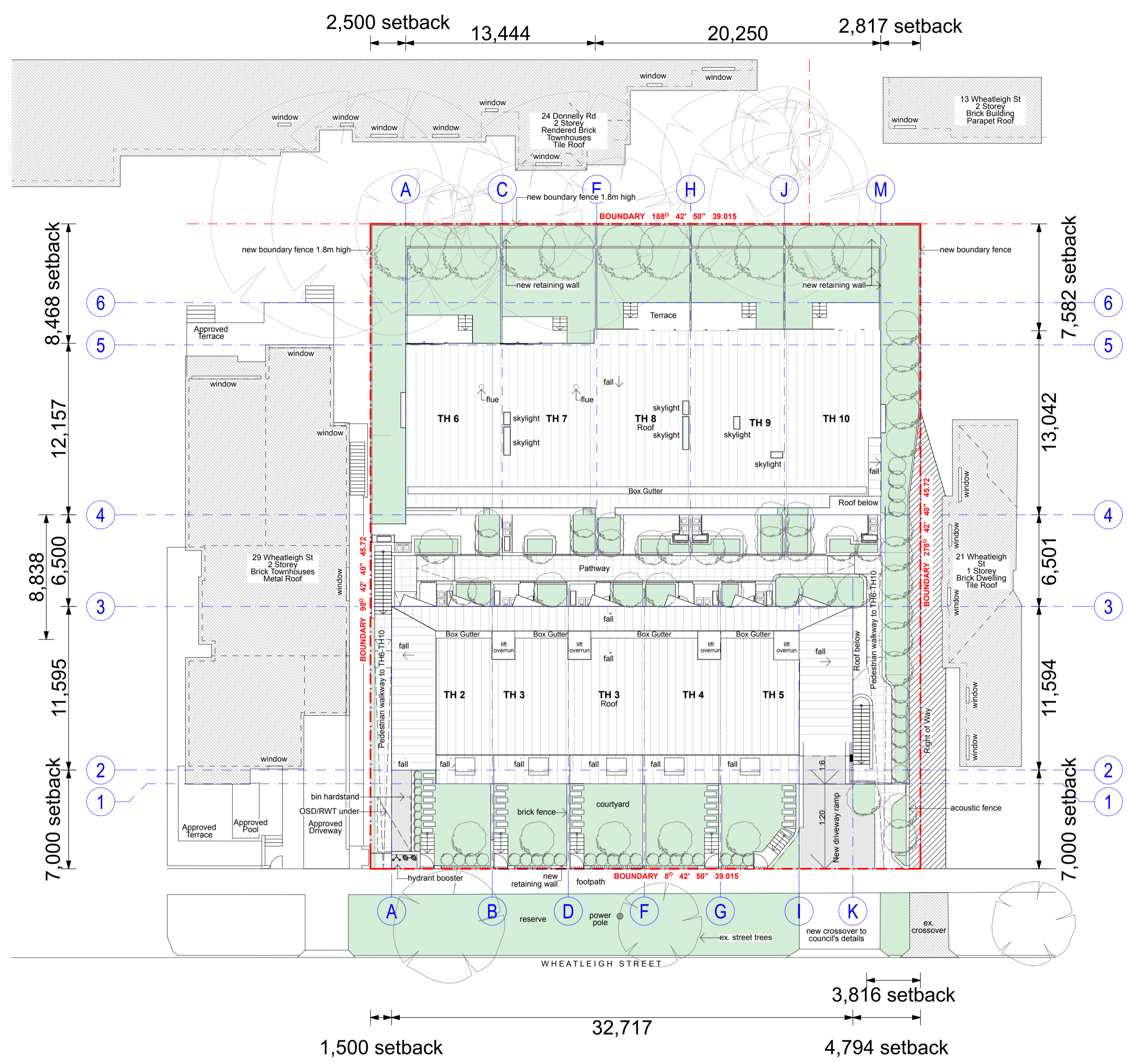
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Site Analysis
issue Development Application

job no. MPWS
 drawn ABZ
 checked MMK
 scale
dwg no. DA01
 revision
5



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revisions		
Rev'd	Date	Description
1	20/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	19/6/21	Preliminary DA with Services Integration
4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

file: MPWS6.2-211124 DA Amendments.pln
 print date & time: 25/11/21@3:36 pm

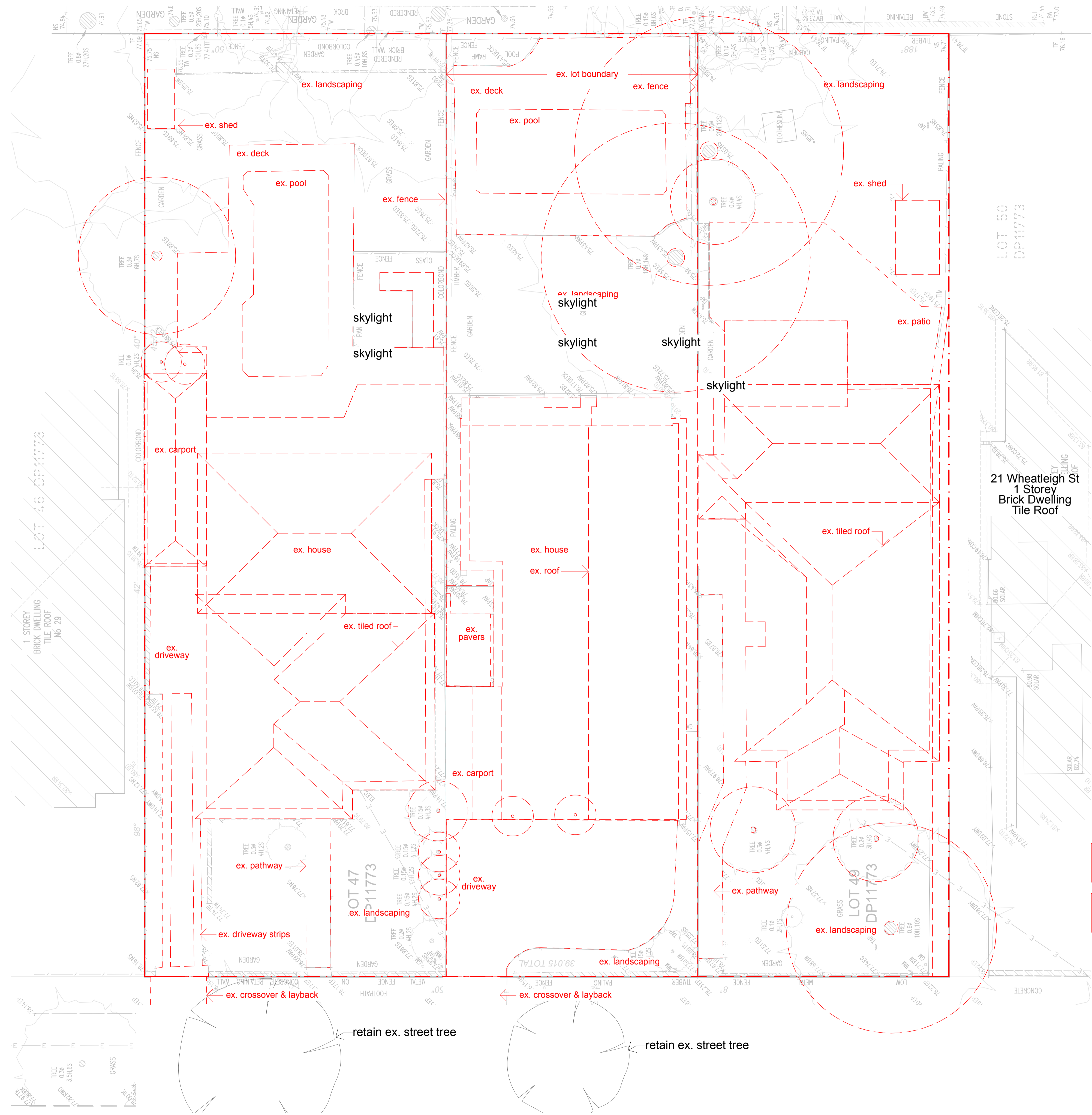
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Site Plan
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:100 @A1
dwg no. DA02
revision 5



21 Wheatleigh St
1 Storey
Brick Dwelling
Tile Roof

LEGEND:
- - - - - items to be demolish

NOTE: demolish all existing houses, pools, trees, fences, pathways, driveways, pavers, patios and sheds.

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4	27/7/21	DA Issue
5	25/11/21	DA Issue

notes

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project Wheatleigh St Town Houses

address 23-27 Wheatleigh St
Crowes Nest NSW

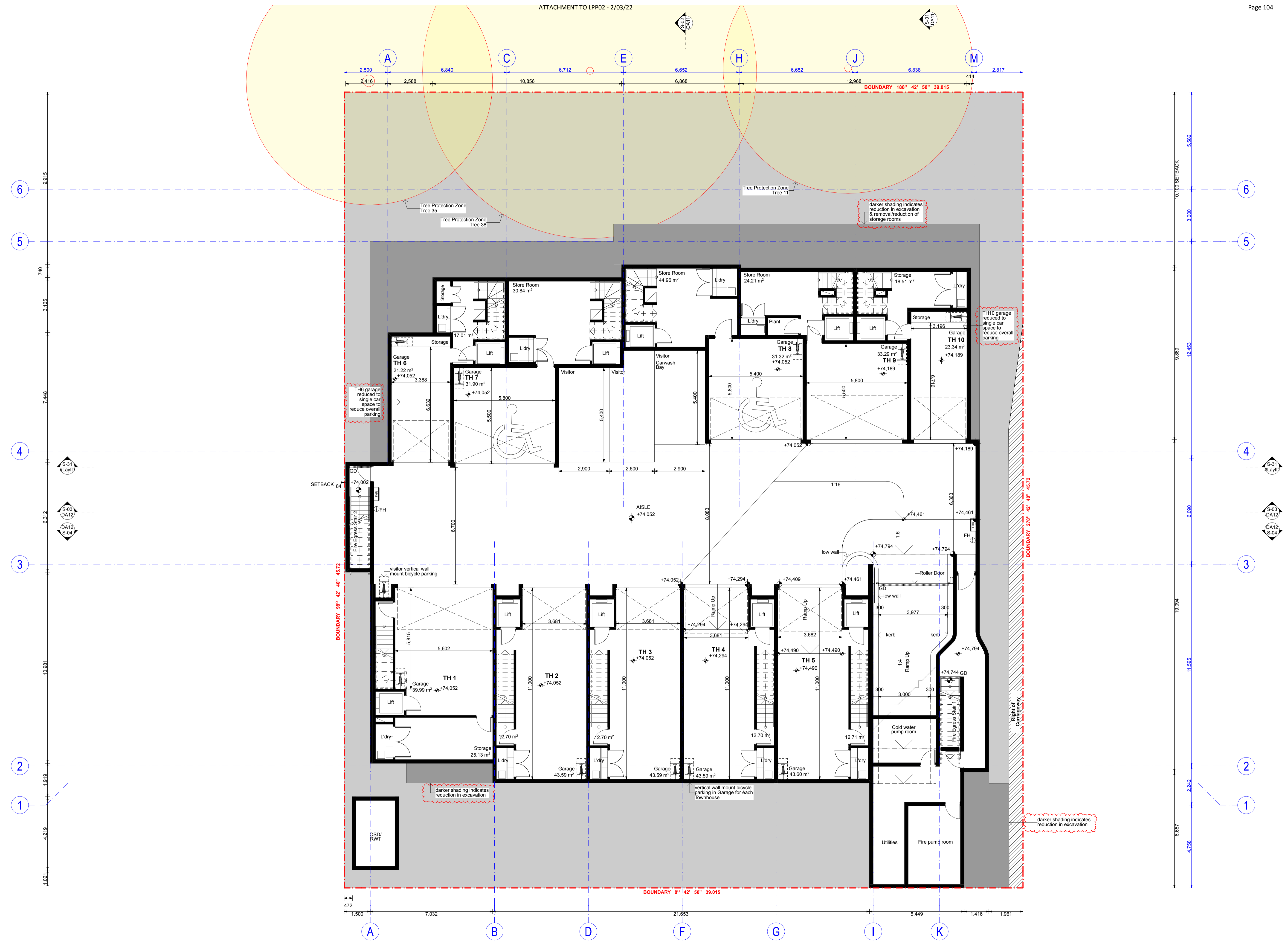
client Metro Property Group

title Demolition Plan

issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale

dwg no. DA03
revision 5



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Rev'd	Date	Description
B	17/3/21	Sketch Rev B
C	26/3/21	Sketch Rev C
D	26/3/21	Preliminary Issue
E	14/4/21	Sketch Design Rev E
F	12/4/21	Preliminary Pre-DA Issue
G	7/5/21	Sketch Design Rev G
1	20/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	10/6/21	Preliminary DA WIP Services Integration
4	2/7/21	DA Issue
5	25/11/21	DA Issue

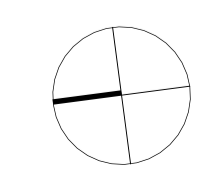
notes

darker shading indicates reduction in excavation

vertical wall mount bicycle parking in Garage for each Townhouse

OSD/RWT

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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Level 1 Plan
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:100 @A1
dwg no. DA04
revision
5



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B	17/3/21	Sketch Rev B
C	26/3/21	Sketch Rev C
D	26/3/21	Preliminary Issue
E	14/4/21	Sketch Design Rev E
F	12/4/21	Preliminary Pre-DA Issue
G	7/5/21	Sketch Design Rev G
1	20/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	10/6/21	Preliminary DA WIP Services Integration
4	27/7/21	DA Issue
5	25/11/21	DA Issue

notes
 retain ex. street tree
 power pole
 retain ex. street tree
 new crossover to council's details
 ex. crossover
 file: MPWS6 2-211124 DA Amendments.ppt
 print date & time: 25/11/21@3:36 pm

revisions

notes

WHEATLEIGH STREET

BOUNDARY 188° 42' 40" 39.015

BOUNDARY 278° 42' 40" 45.72

BOUNDARY 8° 42' 50" 39.015

BOUNDARY 188° 42' 40" 39.015

BOUNDARY 278° 42' 40" 45.72

BOUNDARY 8° 42' 50" 39.015

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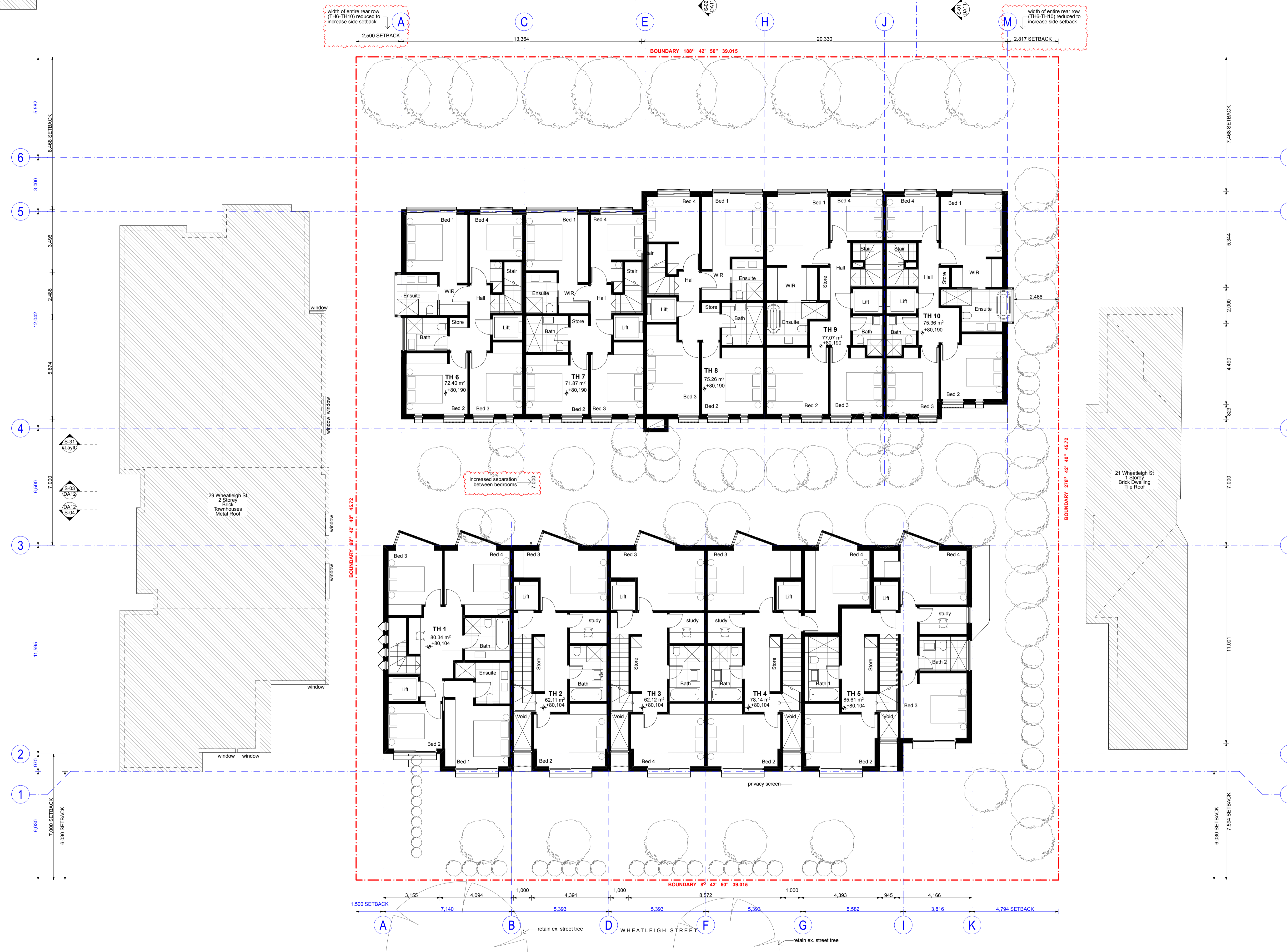
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Level 2 Plan
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:100 @A1

dwg no. DA05
revision 5



revisions

Rev	Date	Description
B	17/3/21	Sketch Rev B
C	26/3/21	Sketch Rev C
D	26/3/21	Preliminary Issue
E	1/4/21	Sketch Design Rev E
F	12/4/21	Preliminary Pre-DA Issue
G	7/5/21	Sketch Design Rev G
H	20/5/21	Preliminary Development Application
I	27/5/21	Preliminary Development Application 80% Set
J	10/6/21	Preliminary DA WIP Services Integration
K	2/7/21	DA Issue
L	25/11/21	DA Issue

notes

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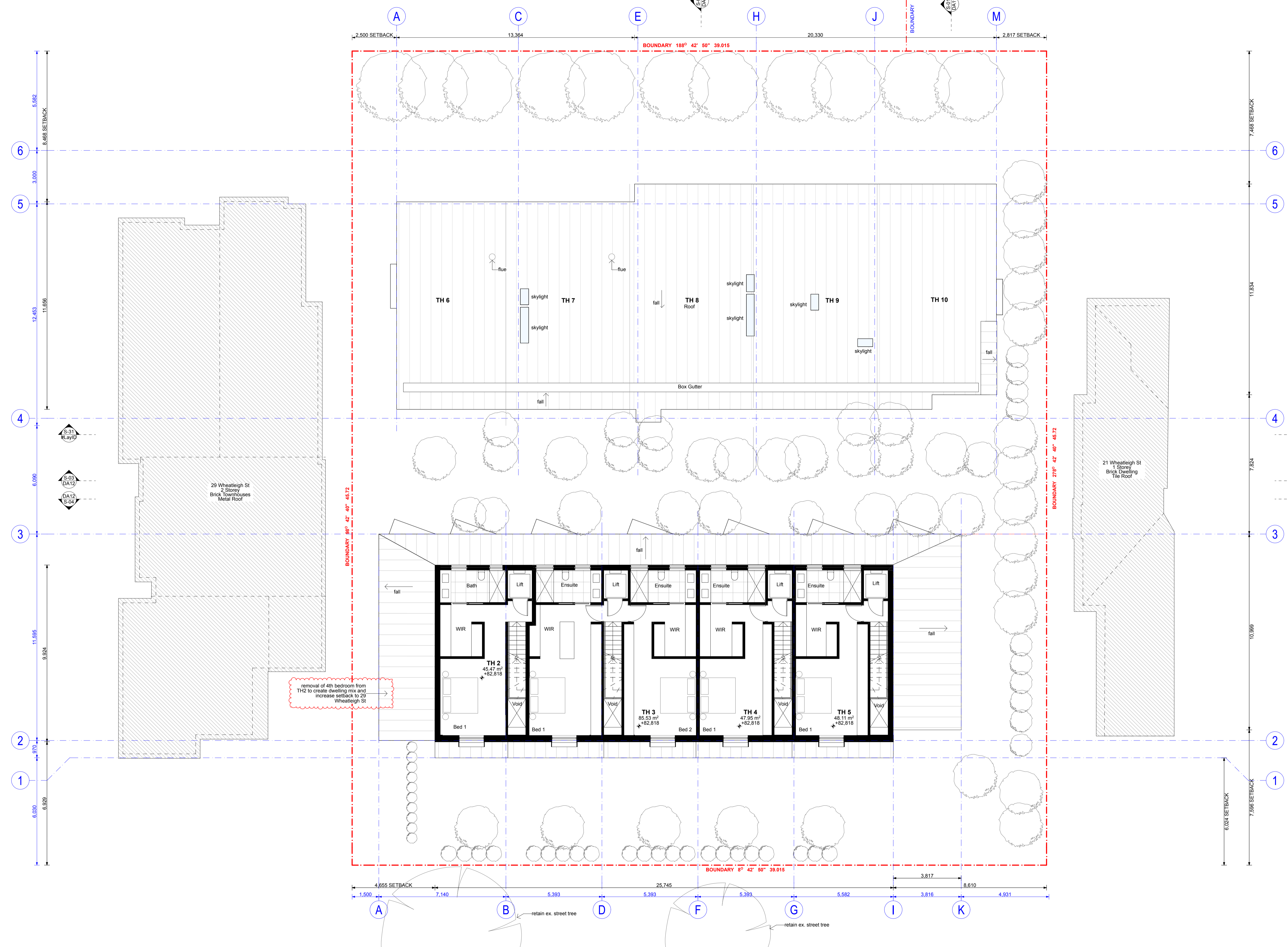
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
Crowns Nest NSW
client Metro Property Group

title Level 3 Plan
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:100 @A1

dwg no. DA06
revision 5



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Rev	Date	Description
B	17/3/21	Sketch Rev B
C	26/3/21	Sketch Rev C
D	26/3/21	Preliminary Issue
E	1/4/21	Sketch Design Rev E
F	12/4/21	Preliminary Pre-DA Issue
G	7/5/21	Sketch Design Rev G
1	20/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	10/6/21	Preliminary DA WIP Services Integration
4	2/7/21	DA Issue
5	25/11/21	DA Issue

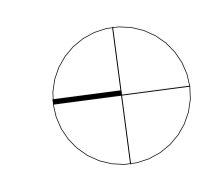
notes

removal of 4th bedroom from TH2 to create dwelling mix and increase setback to 29 Wheatleigh St

retain ex. street tree

retain ex. street tree

file: MPWS6 2-211124 DA Amendments.ppt
 print date & time: 25/11/21@3:36 pm



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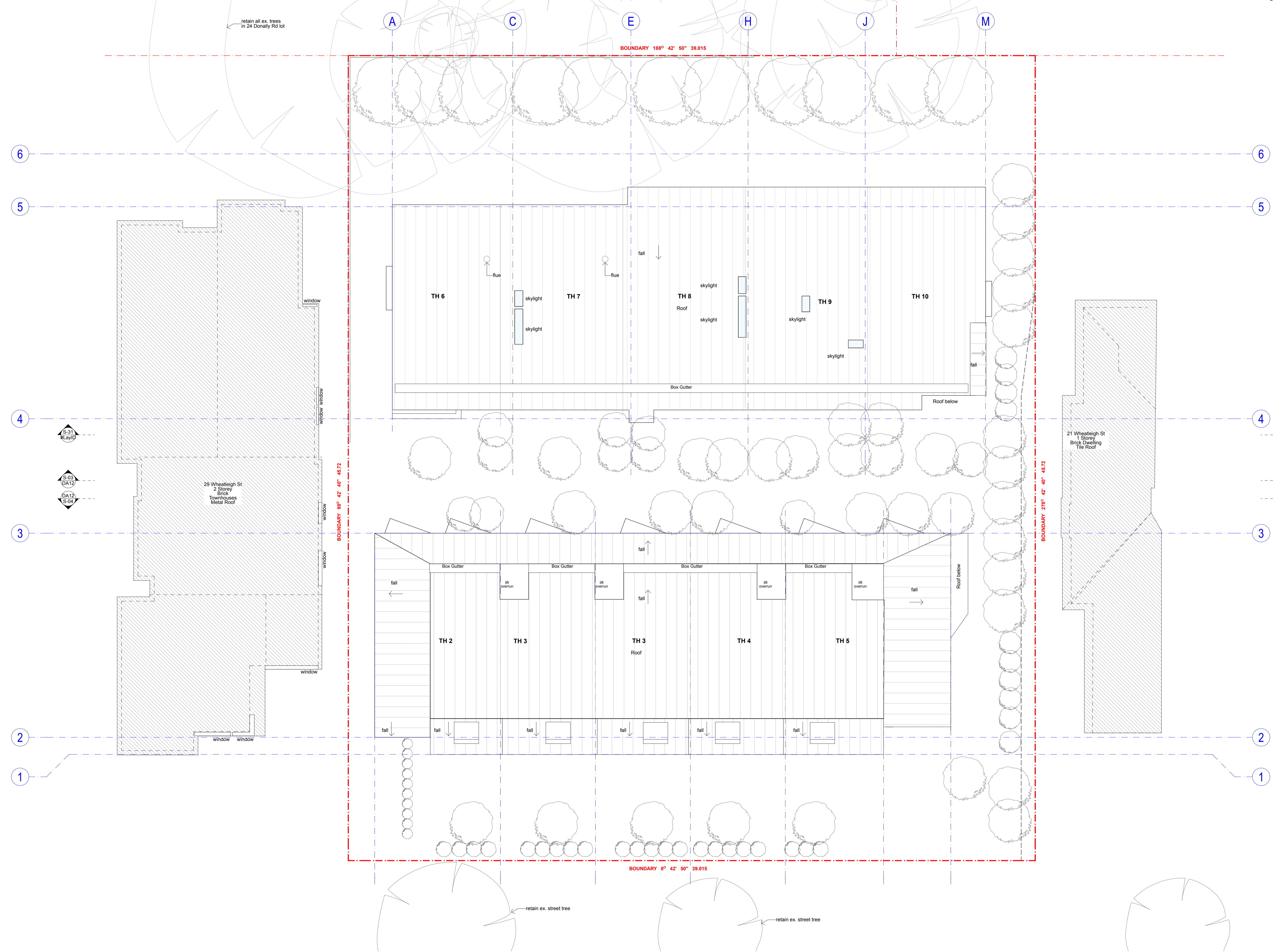
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project | Wheatleigh St Town Houses
address | 23-27 Wheatleigh St
 Crowns Nest NSW
client | Metro Property Group

title | Level 4 Plan
issue | Development Application

job no. | MPWS
drawn | ABZ
checked | MMK
scale | 1:100 @A1

dwg no. | DA07
revision | 5



revisions

Rev#	Date	Description
1	20/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	10/6/21	Preliminary DA with Services Integration
4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

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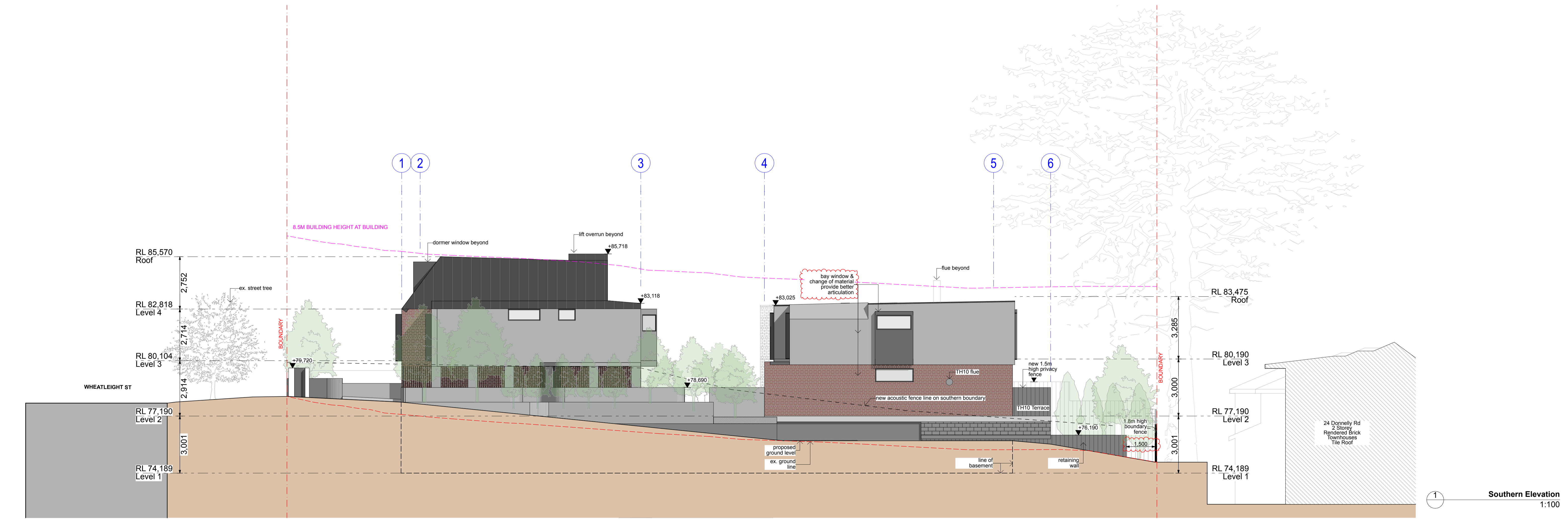
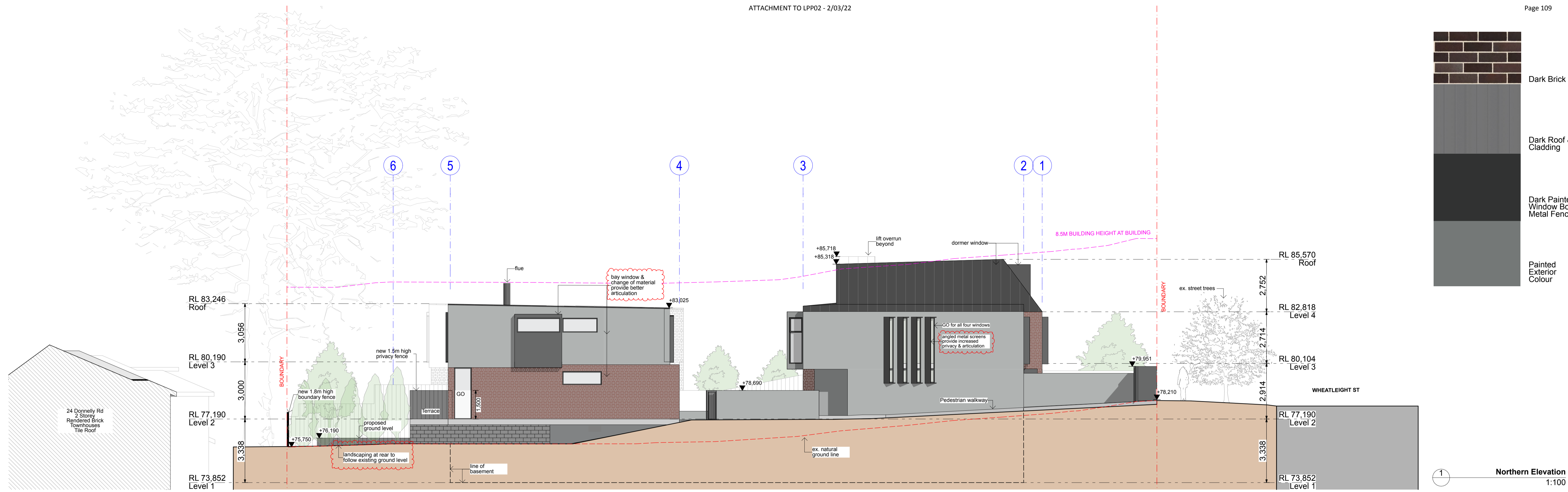
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
Crowds Nest NSW
client Metro Property Group

title Roof Plan
issue Development Application

job no. IMPWS
drawn ABZ
checked MMK
scale
dwg no. DA08
revision
5



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Rev	Date	Description
A	26/3/21	Preliminary Issue
F	12/4/21	Preliminary Pre-DA Issue
1	23/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	10/6/21	Preliminary DA WIP Services Integration
4	27/7/21	DA Issue
5	25/11/21	DA Issue

notes

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 print date & time: 25/11/21@3:36 pm

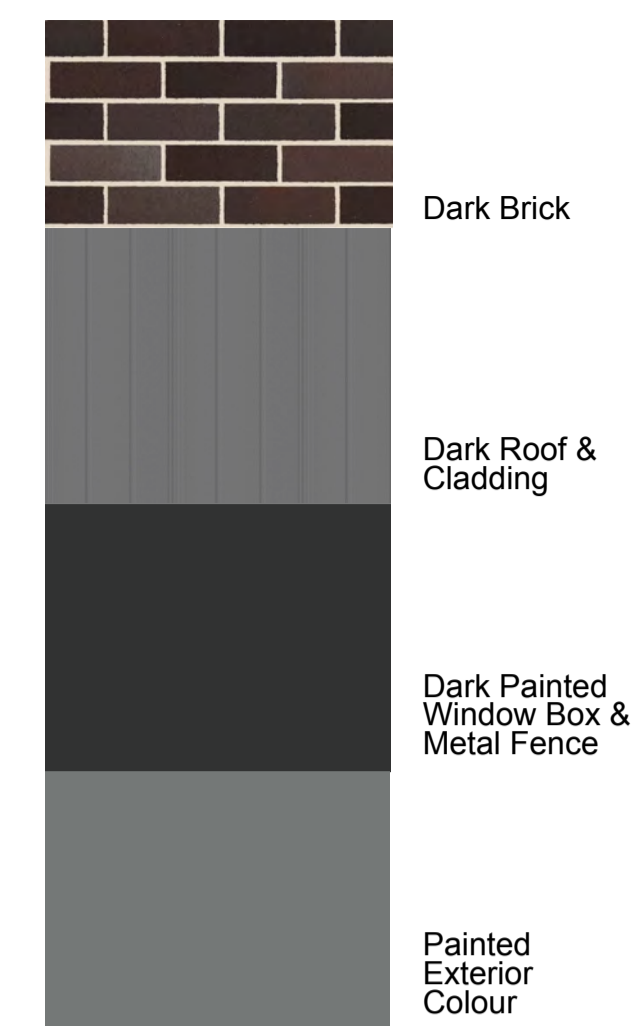
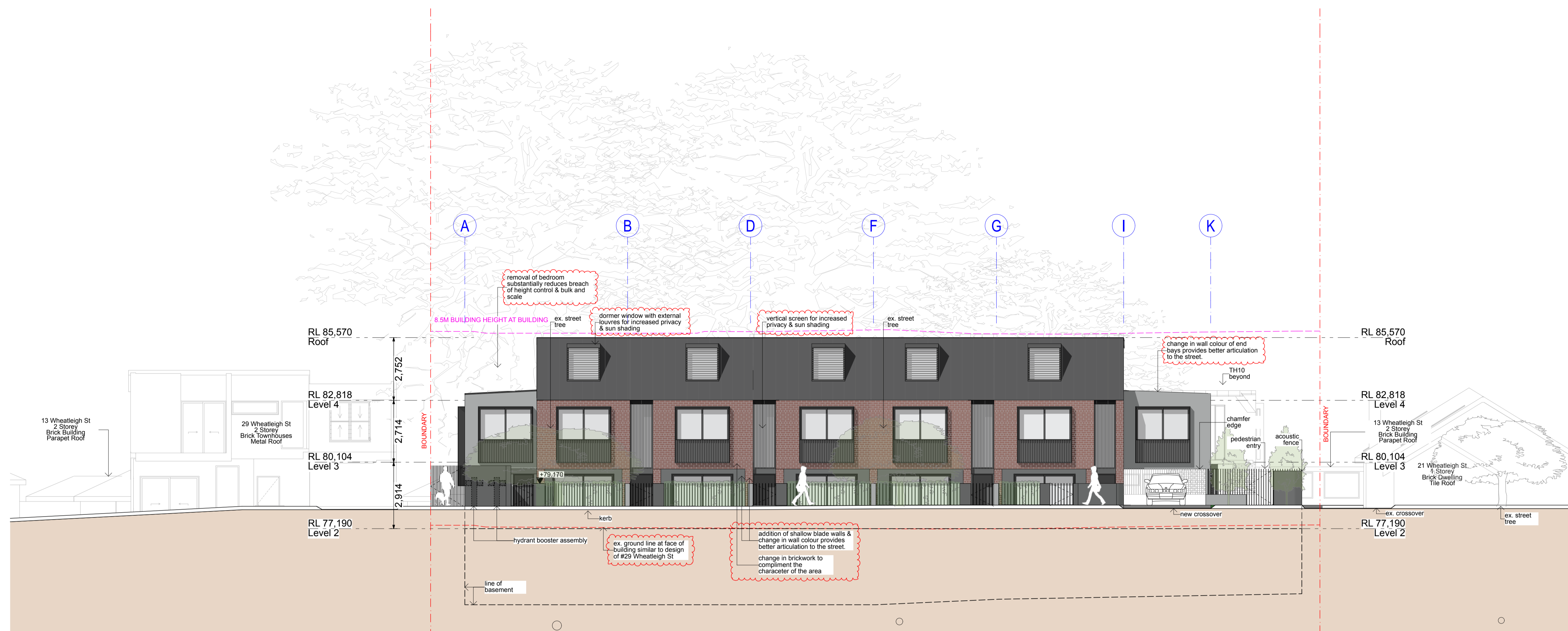
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
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client Metro Property Group

title North & South Elevation
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:100 @A1
dwg no. DA09
revision 5



1 Western Elevation
1:100



1 Eastern Elevation
1:100

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A	26/3/21	Preliminary Issue
F	12/4/21	Preliminary Pre-DA Issue
1	23/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 80% Set
3	10/6/21	Preliminary DA WIP Services Integration
4	27/7/21	DA Issue
5	25/11/21	DA Issue

notes

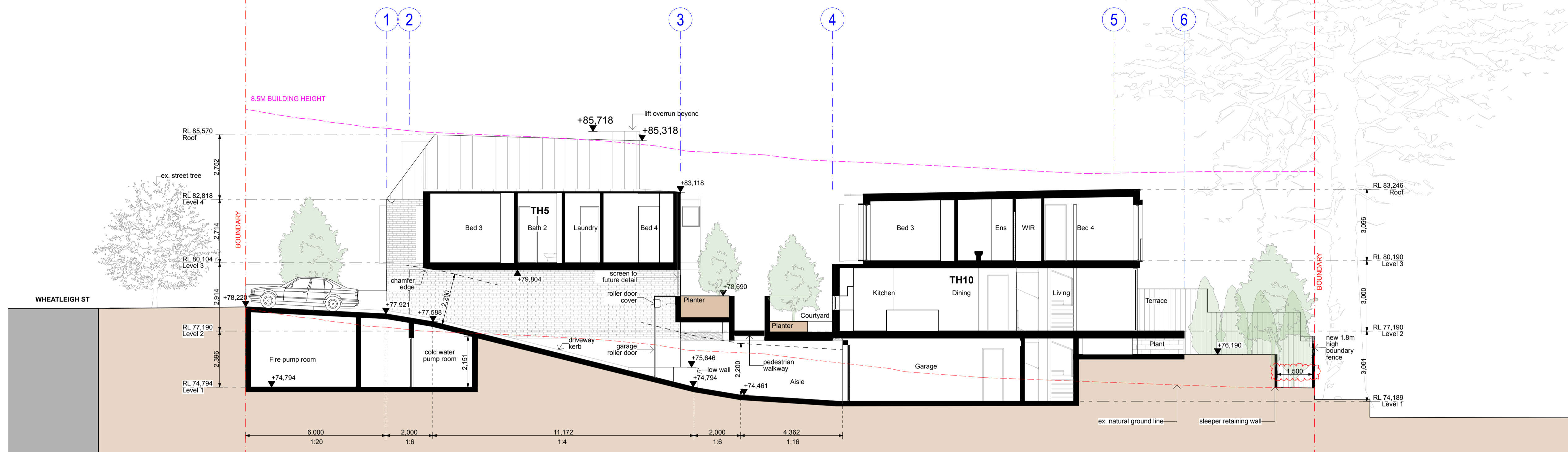
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client Metro Property Group

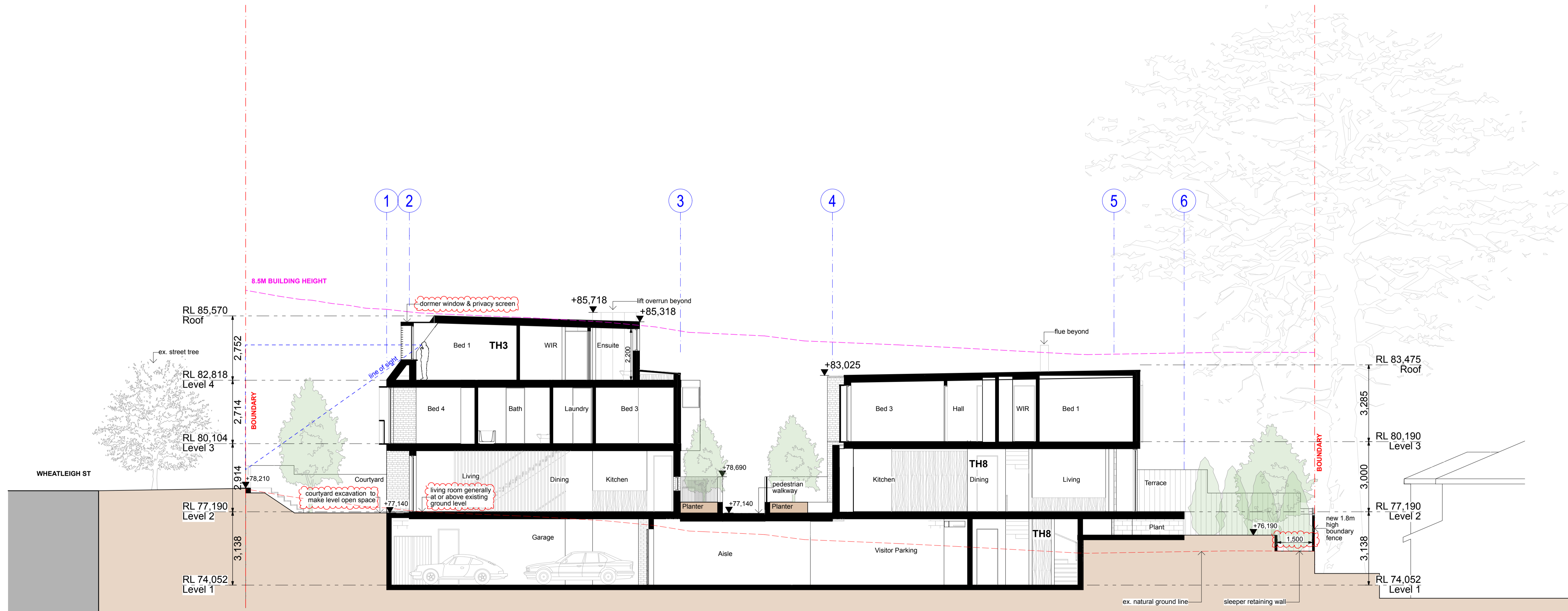
title East & West Elevation
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:100 @A1
dwg no. DA10
revision 5



1

Section 1
1:100



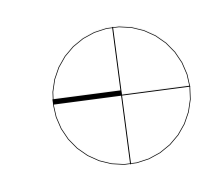
2

Section 2
1:100

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Rev'd	Date	Description
A	5/2/21	Issue
B	17/3/21	Sketch Rev B
C	26/3/21	Sketch Rev C
D	26/3/21	Preliminary Issue
F	12/4/21	Preliminary Pre-DA Issue
1	23/5/21	Preliminary Development Application
2	27/5/21	Preliminary Development Application 85% Set
3	10/6/21	Preliminary DA WIP Services Integration
4	27/7/21	DA Issue
5	25/11/21	DA Issue

notes
 file: MPWS6.2-211124 DA Amendments.ppt
 print date & time: 25/11/21@3:37 pm

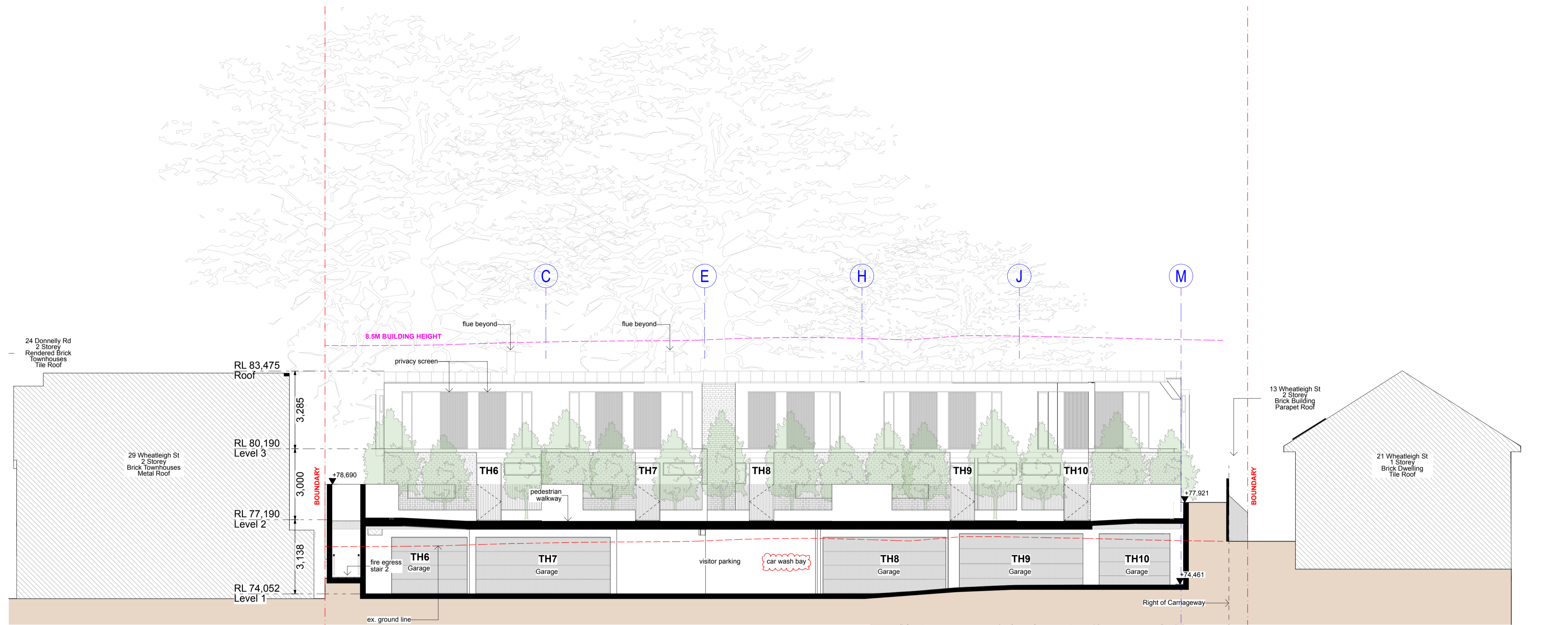


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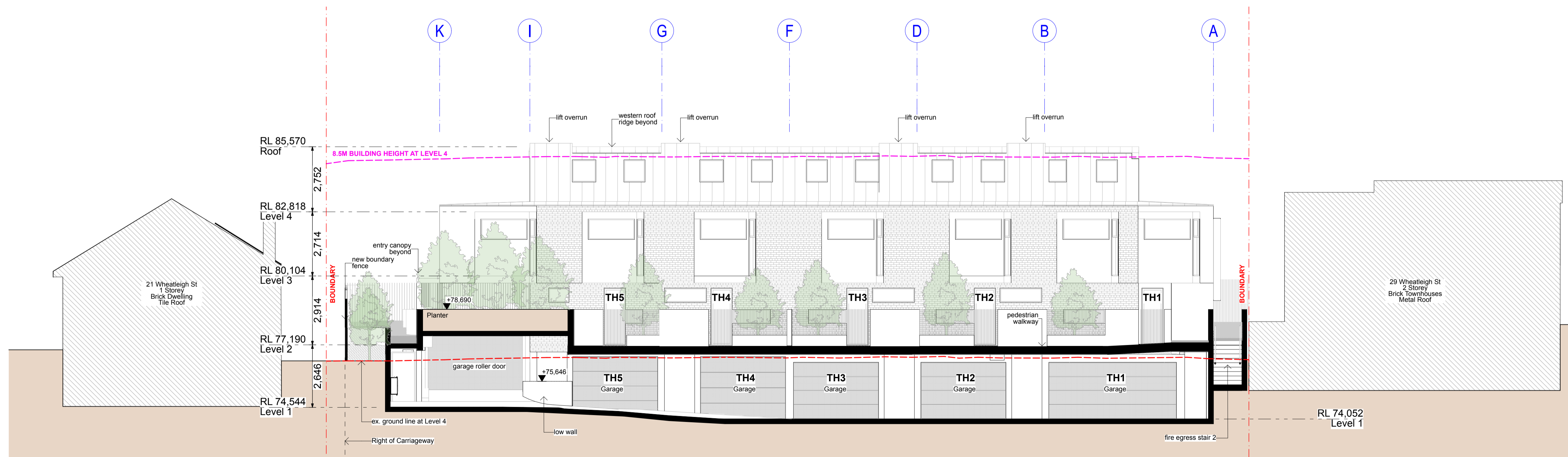
project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crowes Nest NSW
client Metro Property Group

title Sections 1 & 2
issue Development Application

job no. IMPWS
drawn ABZ
checked MMK
scale 1:100 @A1
dwg no. DA11
revision 5



1 Section 3 1:100



1 Section 4 1:100

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2	27/5/21	Preliminary Development Application 80% Set
3	19/6/21	Preliminary DA with Services Integration
4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

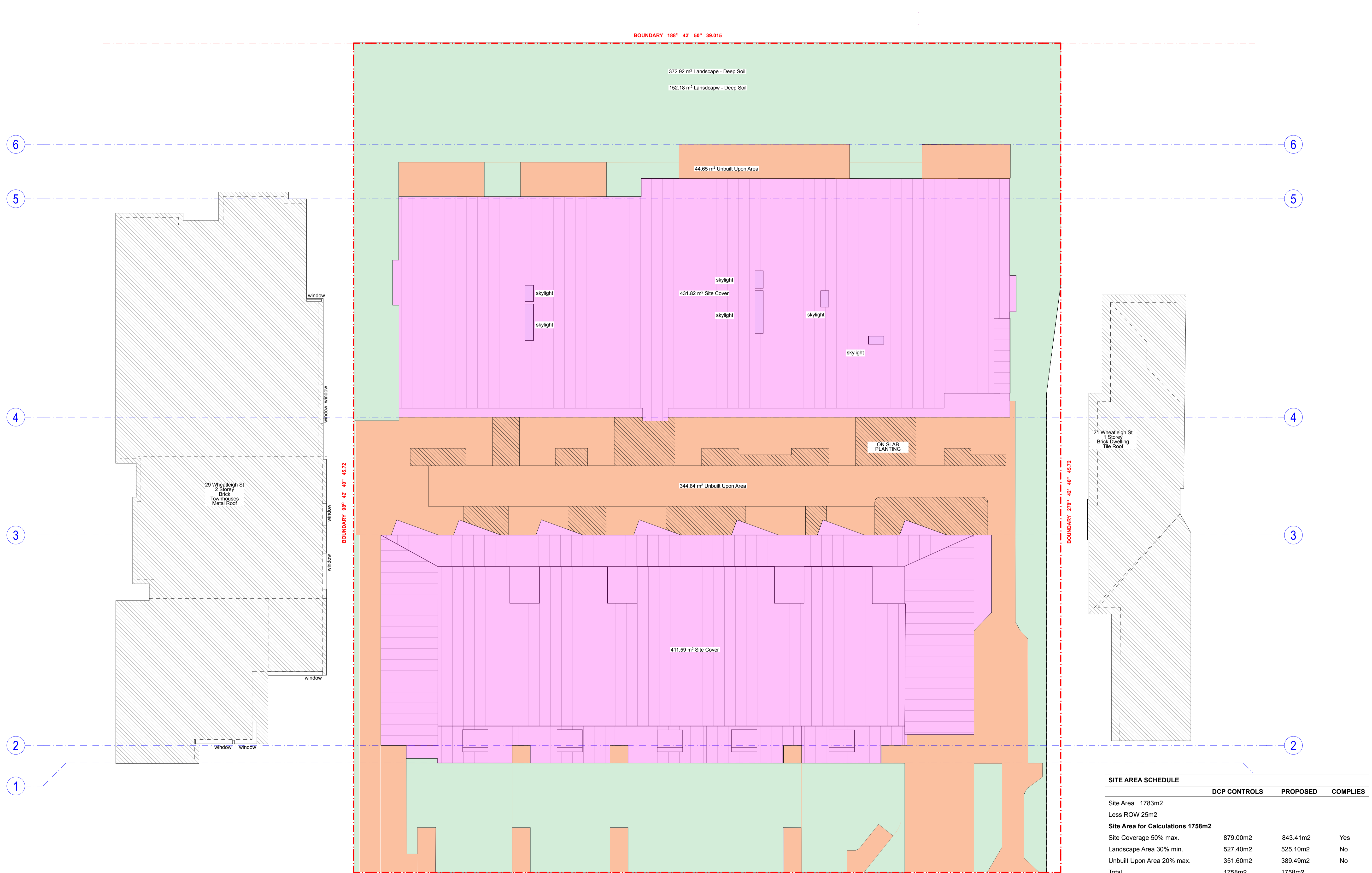
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client Metro Property Group

title Section 3 & 4
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale
dwg no. DA12
revision
5



SITE AREA SCHEDULE			
	DCP CONTROLS	PROPOSED	COMPLIES
Site Area	1783m2		
Less ROW 25m2			
Site Area for Calculations 1758m2			
Site Coverage 50% max.	879.00m2	843.41m2	Yes
Landscape Area 30% min.	527.40m2	525.10m2	No
Unbuilt Upon Area 20% max.	351.60m2	389.49m2	No
Total	1758m2	1758m2	
NOTE On slab planting 60.75m2			

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Rev'd	Date	Description
A	26/3/21	Preliminary Issue
F	12/4/21	Preliminary Pre-DA Issue
G	16/4/21	Updated Area Calculations
H	7/6/21	Sketch Design Rev G
I	26/5/21	Preliminary Development Application
J	27/5/21	Preliminary Development Application 80% Set
K	10/6/21	Preliminary DA WIP Services Integration
L	23/7/21	DA Issue
M	25/11/21	DA Issue

notes

file: MPWS6.2-211124 DA Amendments.pln
 print date & time: 25/11/21@3:37 pm

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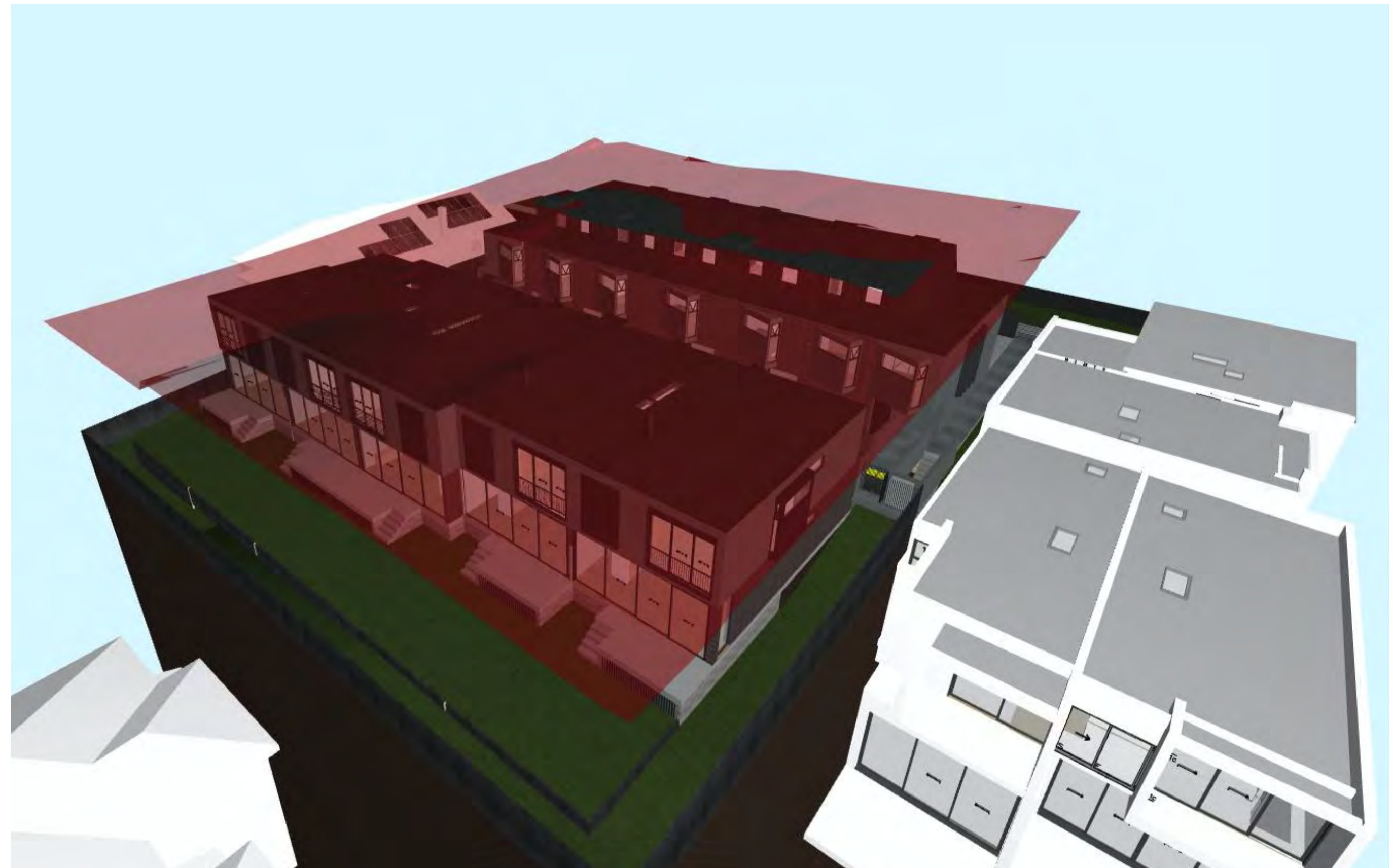
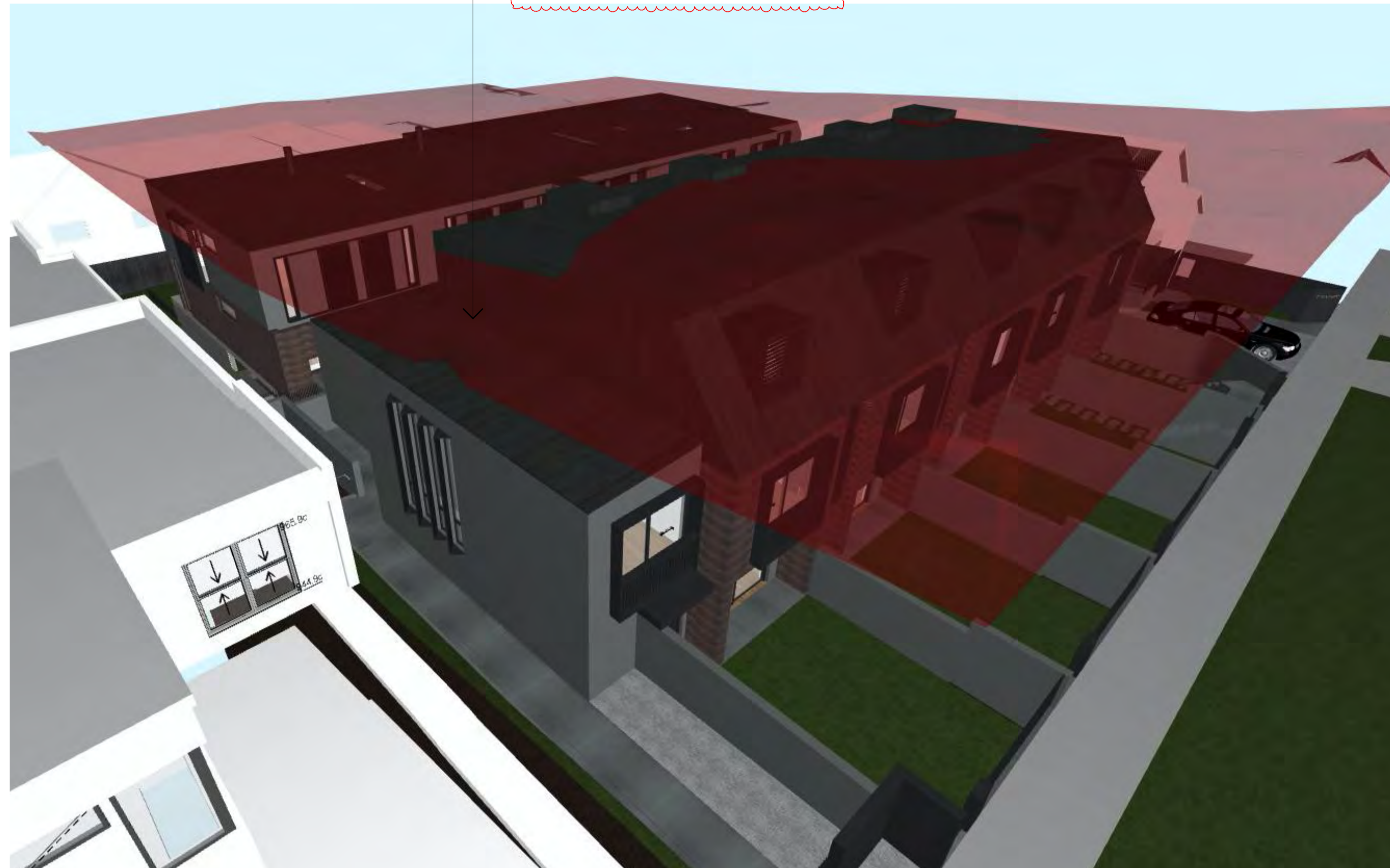
project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Area Calculations
issue Development Application

job no. IMPWS
drawn ABZ
checked MMK
scale 1:100 @A1

dwg no. DA13
revision 5

removal of bedroom
substantially reduces
breach of height control
& bulk and scale



Building Height Plane Perspective West

Building Height Plane Perspective East

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revisions	
Rev'd	Description
A	5/2/21 Issue
B	17/3/21 Sketch Rev B
C	26/3/21 Preliminary Issue
D	14/4/21 Sketch Design Rev E
F	12/4/21 Preliminary Pre-DA Issue
G	7/5/21 Sketch Design Rev G
1	20/5/21 Preliminary Development Application
2	27/5/21 Preliminary Development Application 80% Set
3	10/6/21 Preliminary DA WIP Services Integration
4	2/7/21 DA Issue
5	25/11/21 DA Issue

notes

file: MPWS6.2-211124 DA Amendments.pln
print date & time: 25/11/21@3:37 pm

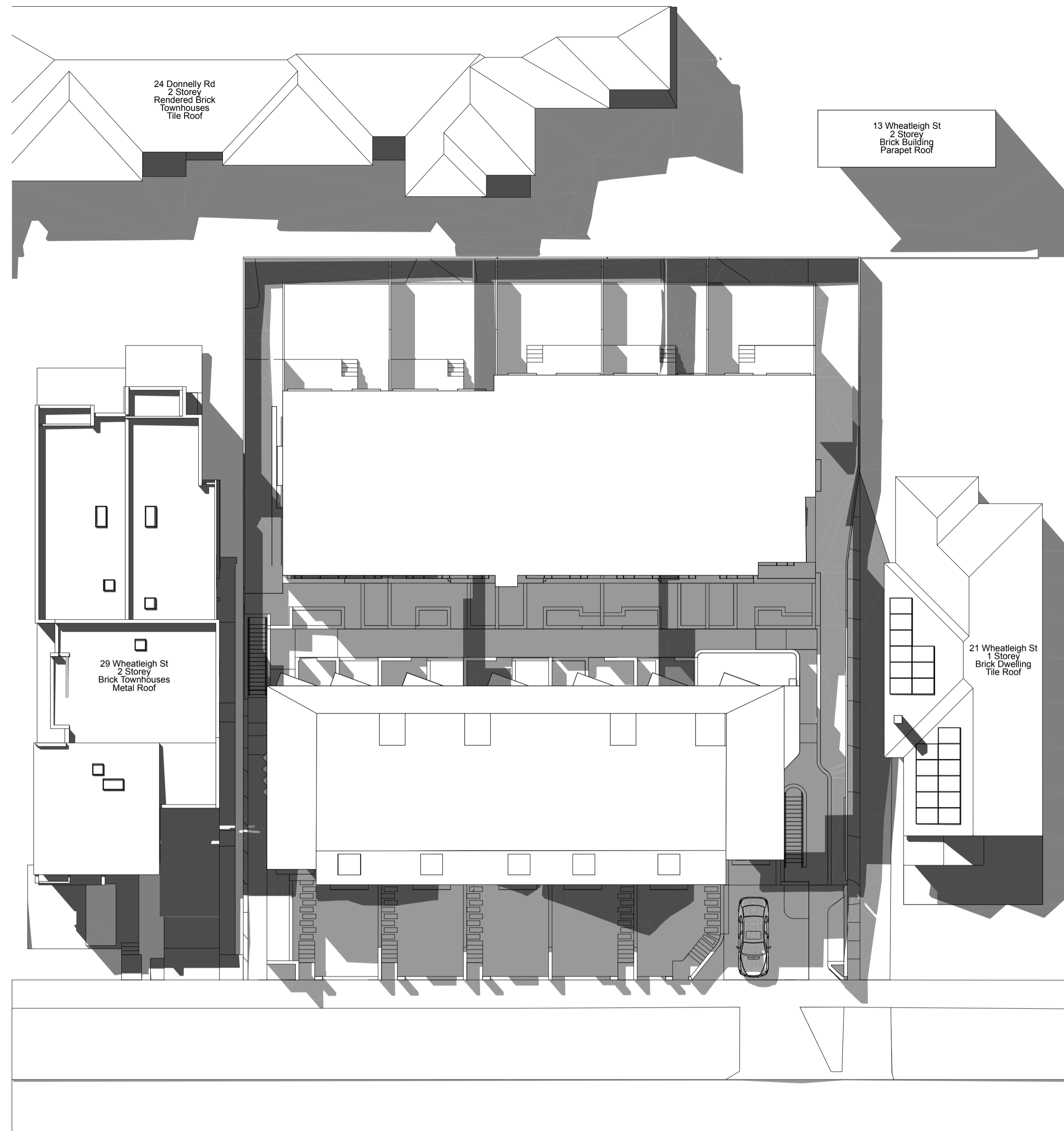
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
Crow's Nest NSW
client Metro Property Group



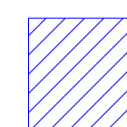
title 3D Views Height Plane
issue Development Application

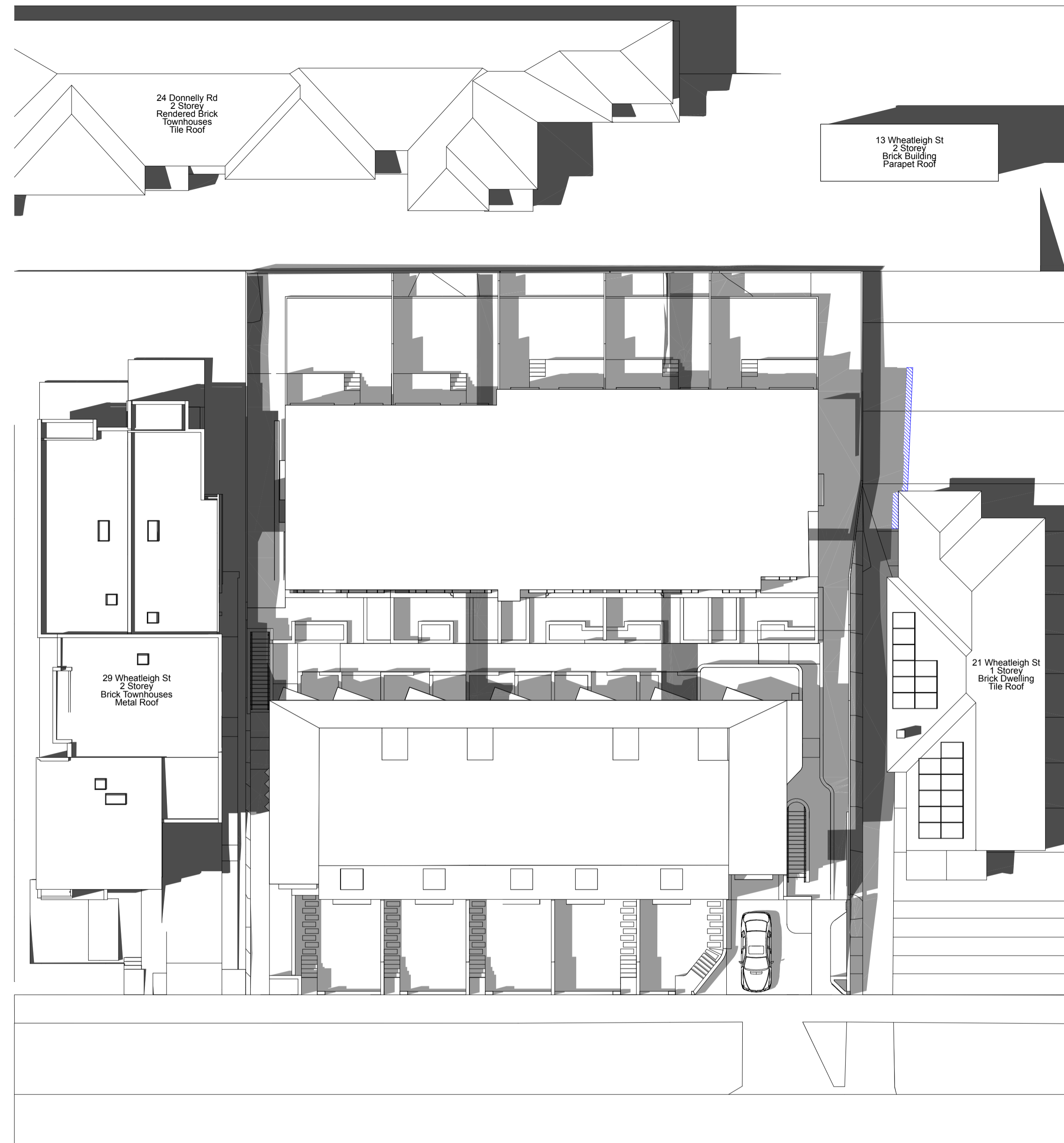
job no. MPWS
drawn ABZ
checked MMK
scale NTS @A1

dwg no. DA14
revision 5



Shadows 21 March/September 9am
1:200

-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows



Shadows 21 March/September 12pm
1:200

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Rev#	Date	Description
4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

file: MPWS6.2-211124 DA Amendments.pln
 print date & time: 25/11/21@3:37 pm

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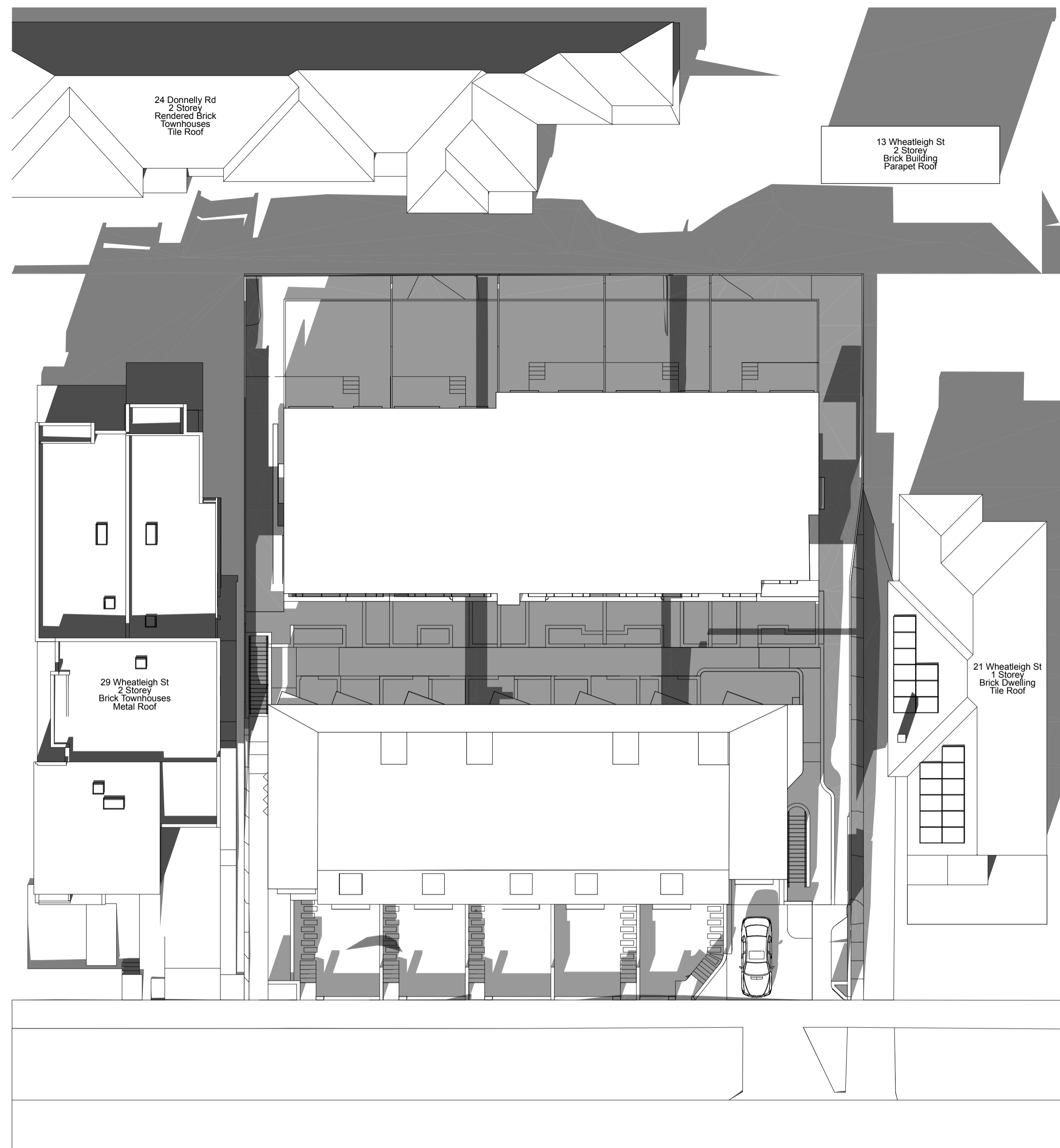
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address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group



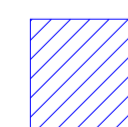
title Shadow Diagrams 21
 March/September Sheet 1
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:200
@A1

dwg no. DA16
revision 5



Shadows 21 March/September 3pm
1:200

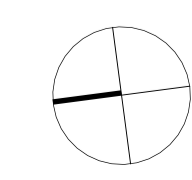
-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows

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4	2/7/21	DA Issue
5	25/11/21	DA Issue

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file: MPWS6.2-211124 DA Amendments.pln
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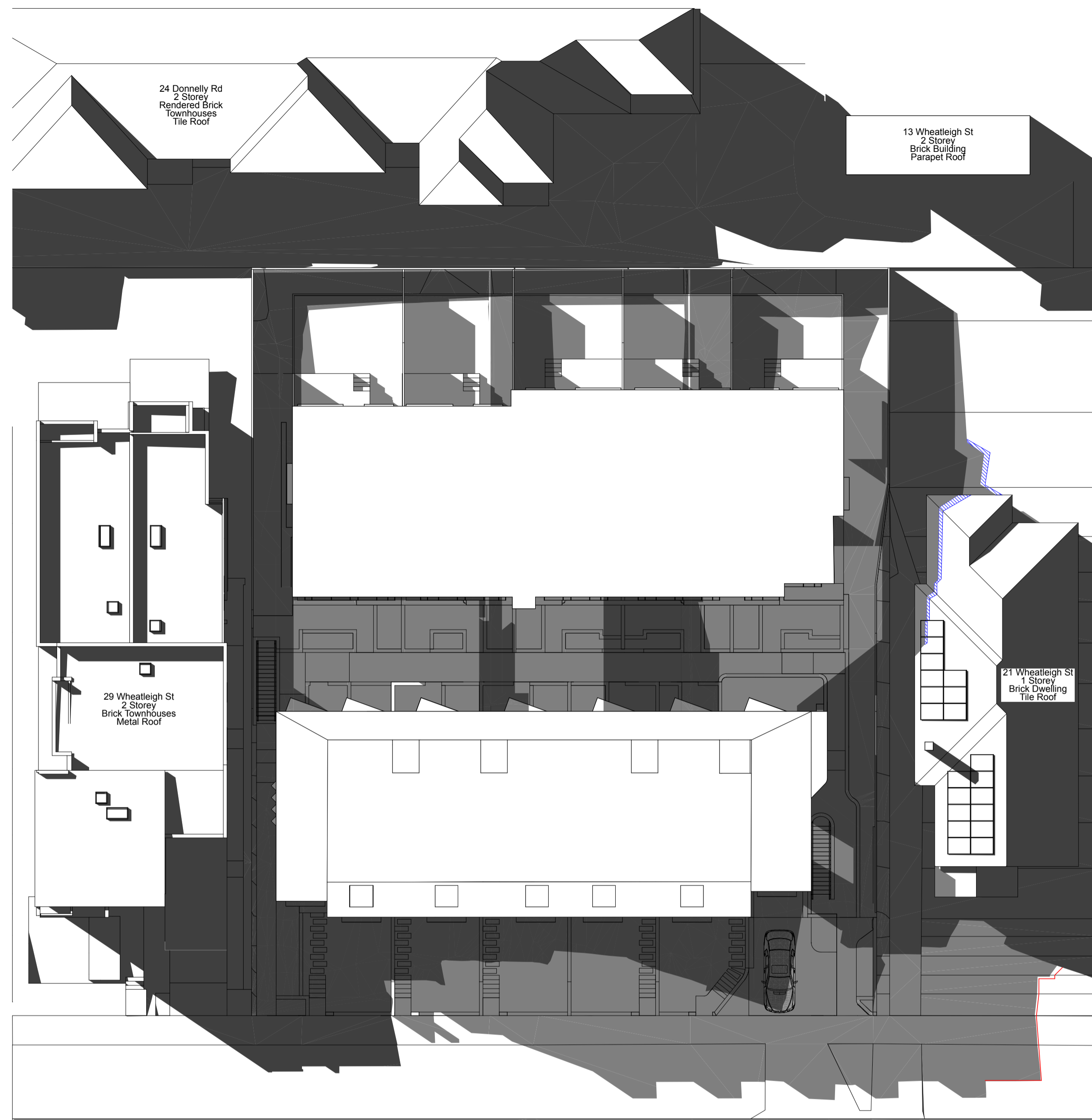


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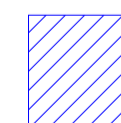
project	Wheatleigh St Town Houses
address	23-27 Wheatleigh St Crow's Nest NSW
client	Metro Property Group

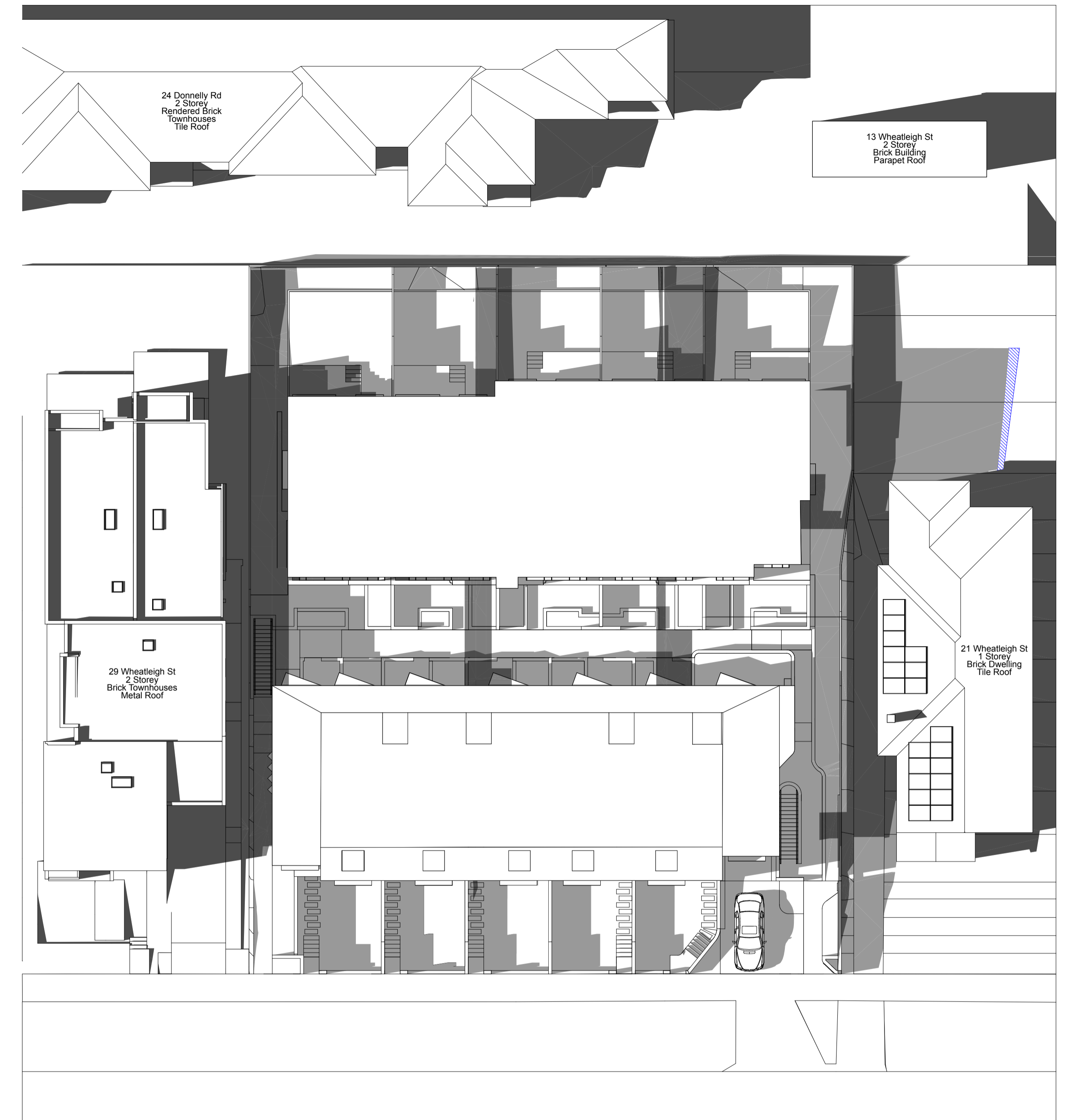
title	Shadow Diagrams 21 March/September Sheet 2
issue	Development Application

job no.	MPWS	dwg no.	DA17
drawn	ABZ	revision	5
checked	MMK		
scale	1:200 @A1		



Shadows 21 June 9am
1:200

-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows



Shadows 21 June 12pm
1:200

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4	2/7/21	DA Issue
5	25/11/21	DA Issue

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client Metro Property Group



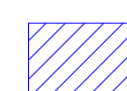
title Shadow Diagrams 21 June Sheet 1
issue Development Application

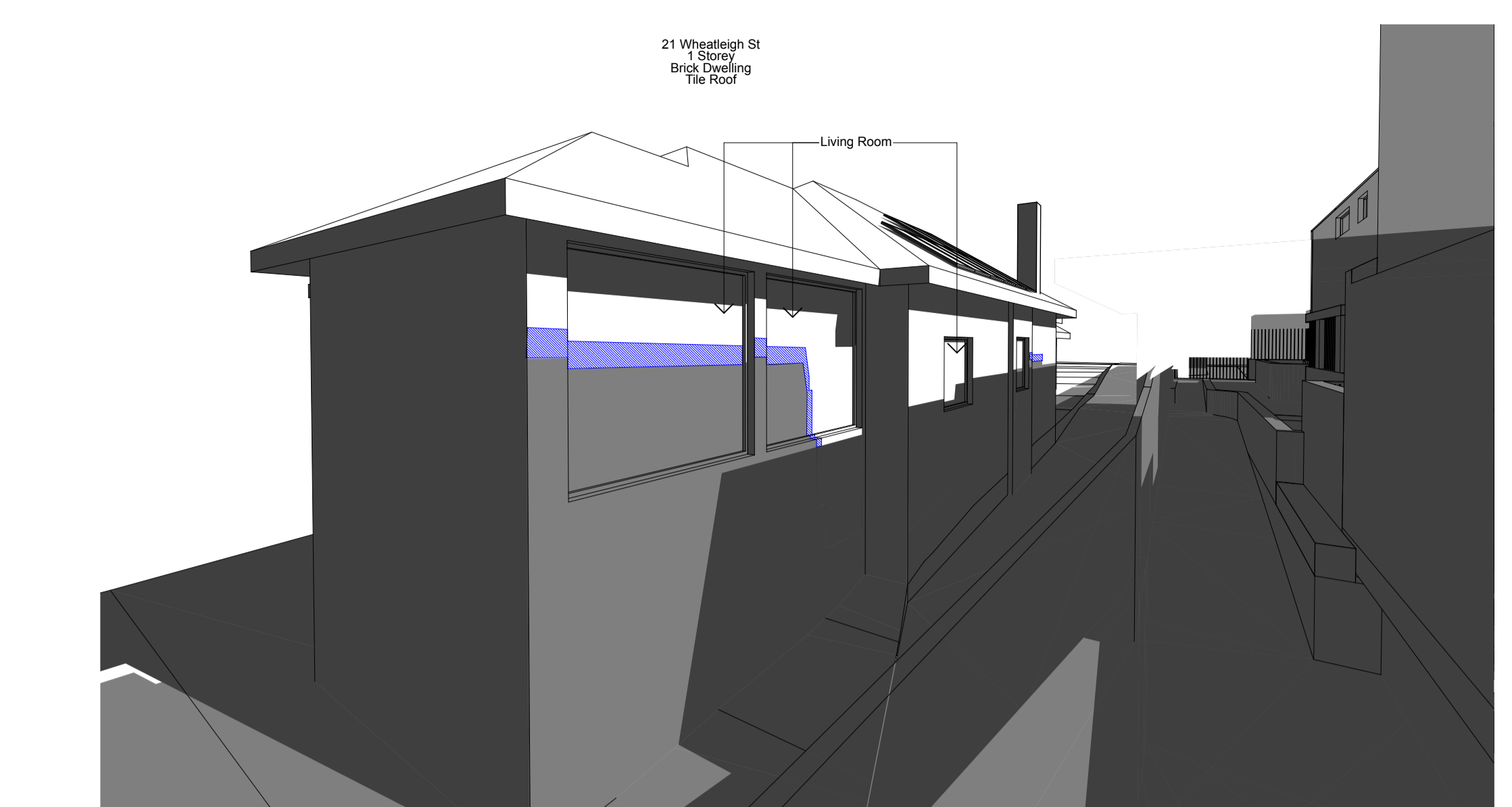
job no. MPWS
drawn ABZ
checked MMK
scale 1:200 @A1

dwg no. DA18
revision 5

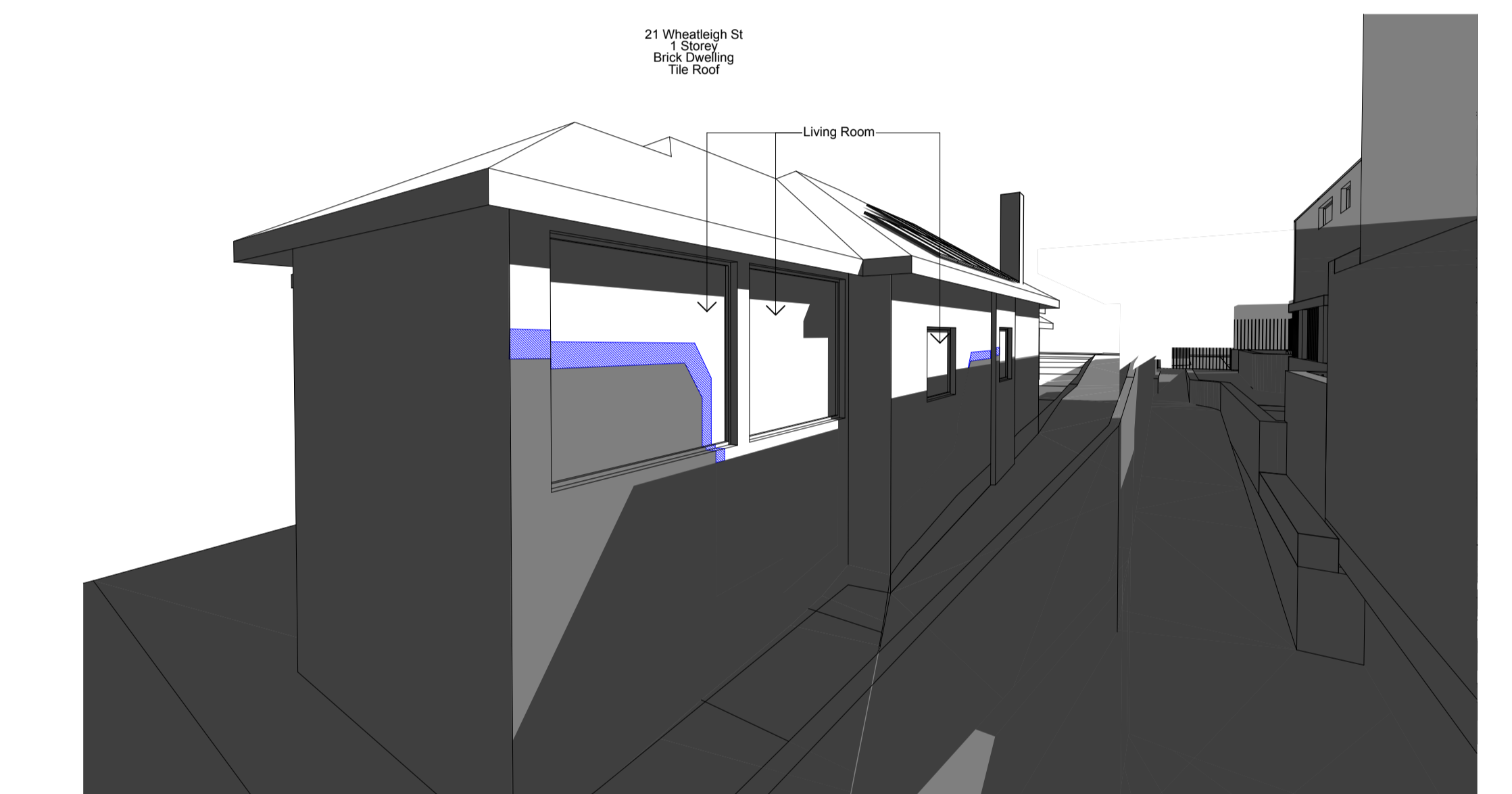


Shadows 21 June 3pm
1:200

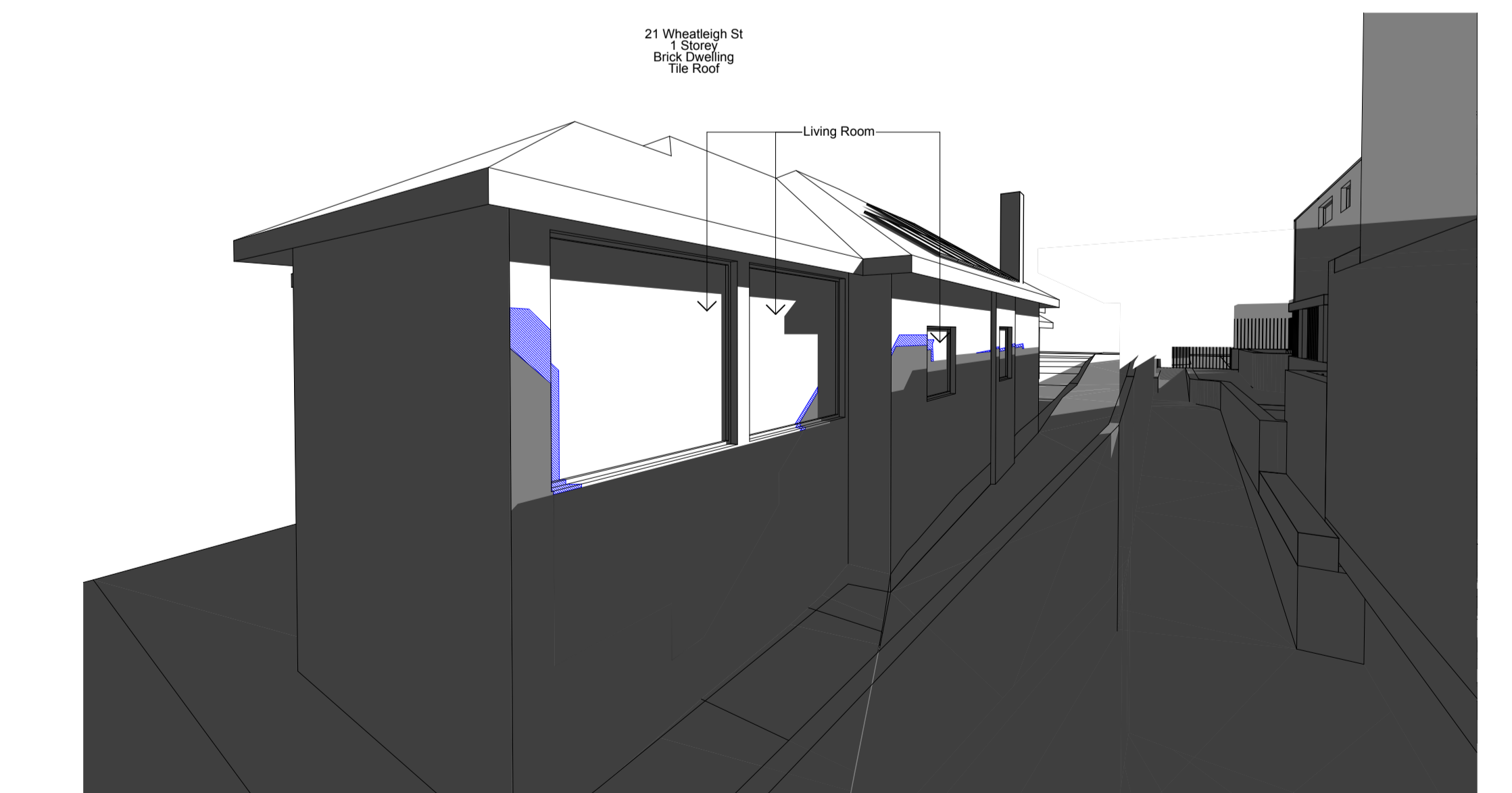
-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows



21 June 12pm



21 June 1pm



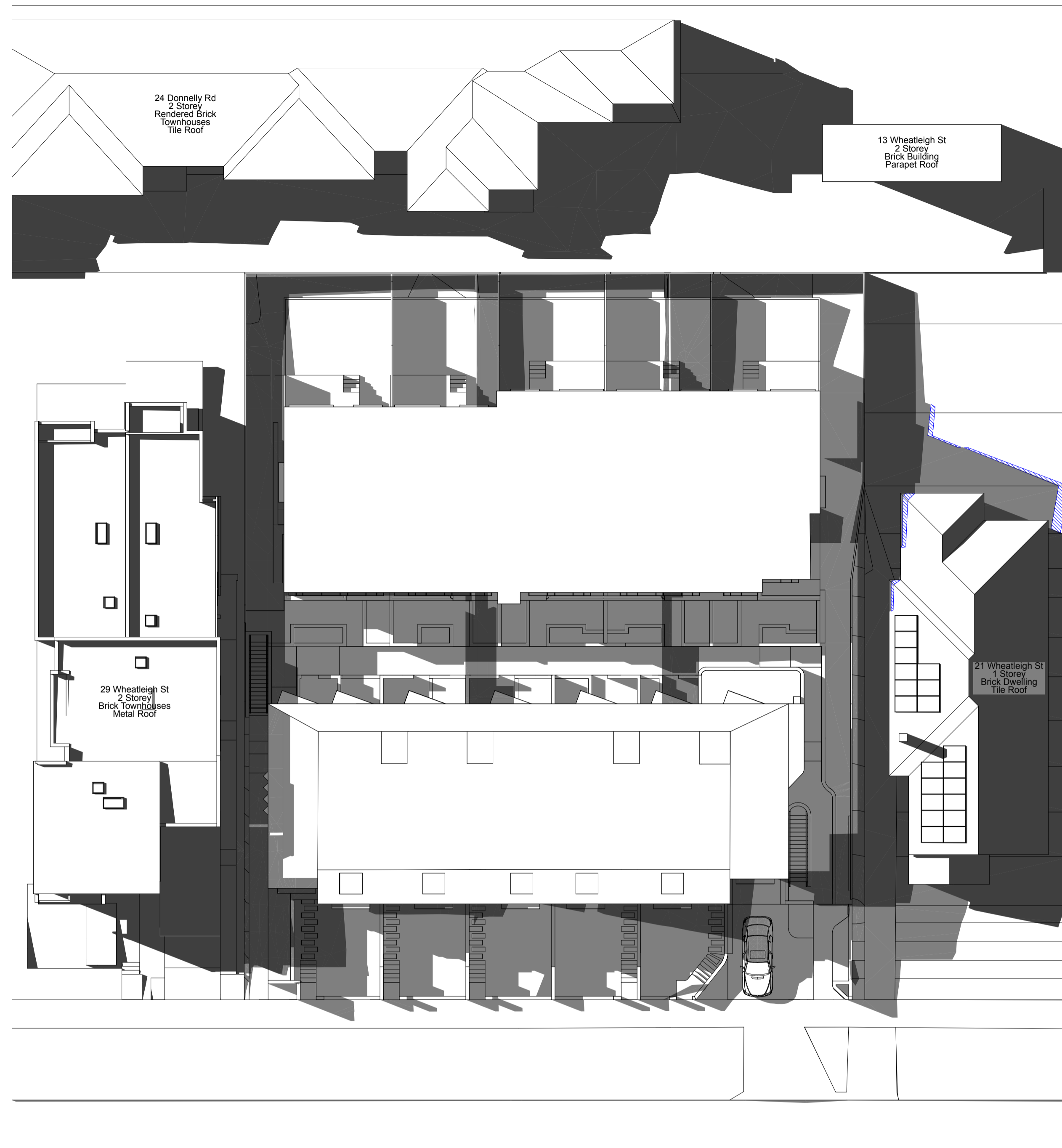
21 June 2pm

Revis	Date	Description
4	2/7/21	DA Issue
5	25/11/21	DA Issue



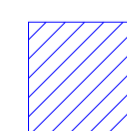
• Any discrepancies to be brought to Architect's attention
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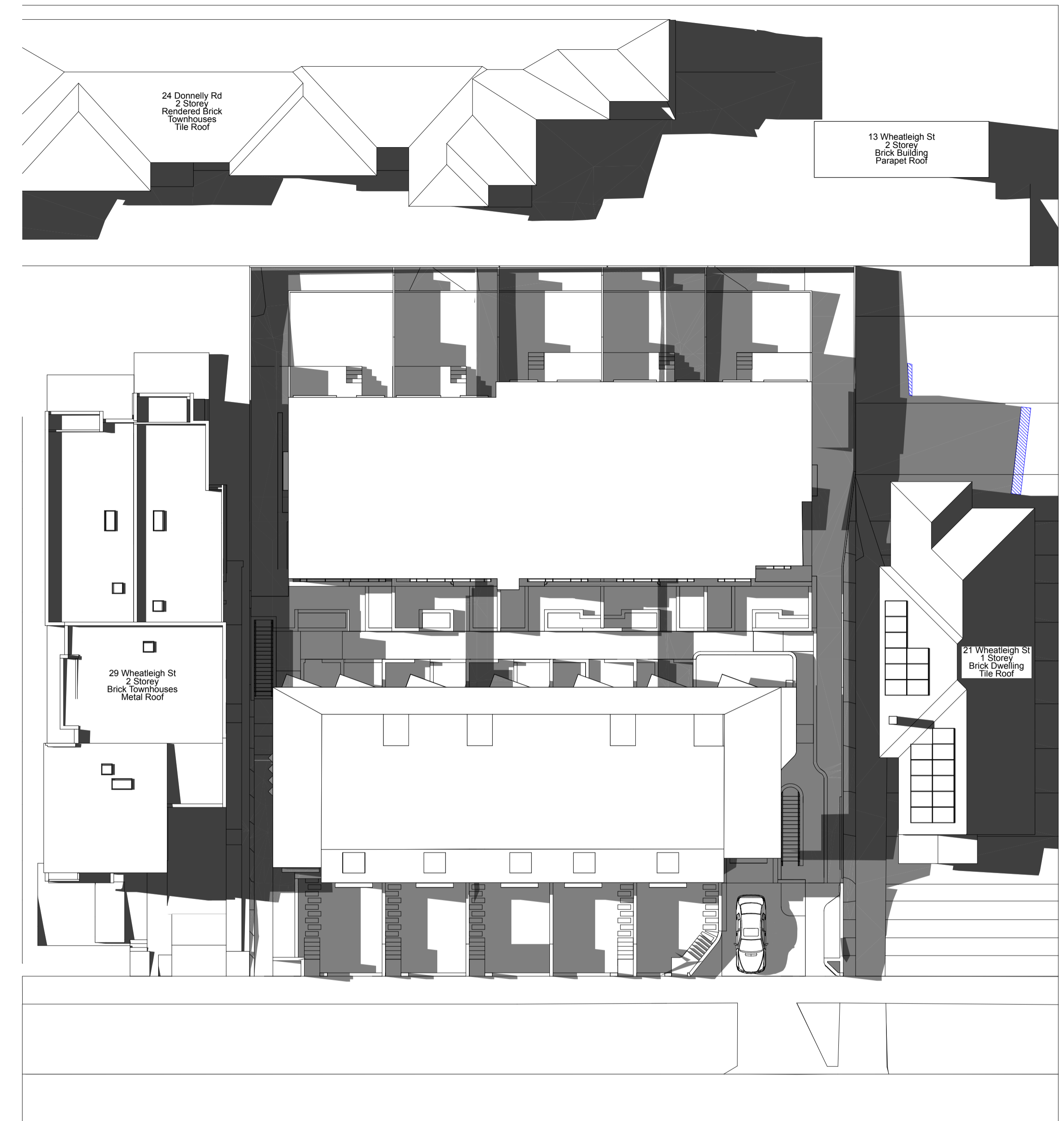
notes
 file: MPWS6.2-211124 DA Amendments.pln
 print date & time: 25/11/21@3:37 pm

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	address 23-27 Wheatleigh St Crows Nest NSW	drawn ABZ	checked MMK	revision 5
	client Metro Property Group	issue Development Application	scale 1:200 @A1	



Shadows 21 June 10am
1:200

-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows



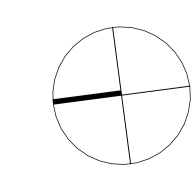
Shadows 21 June 11am
1:200

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4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

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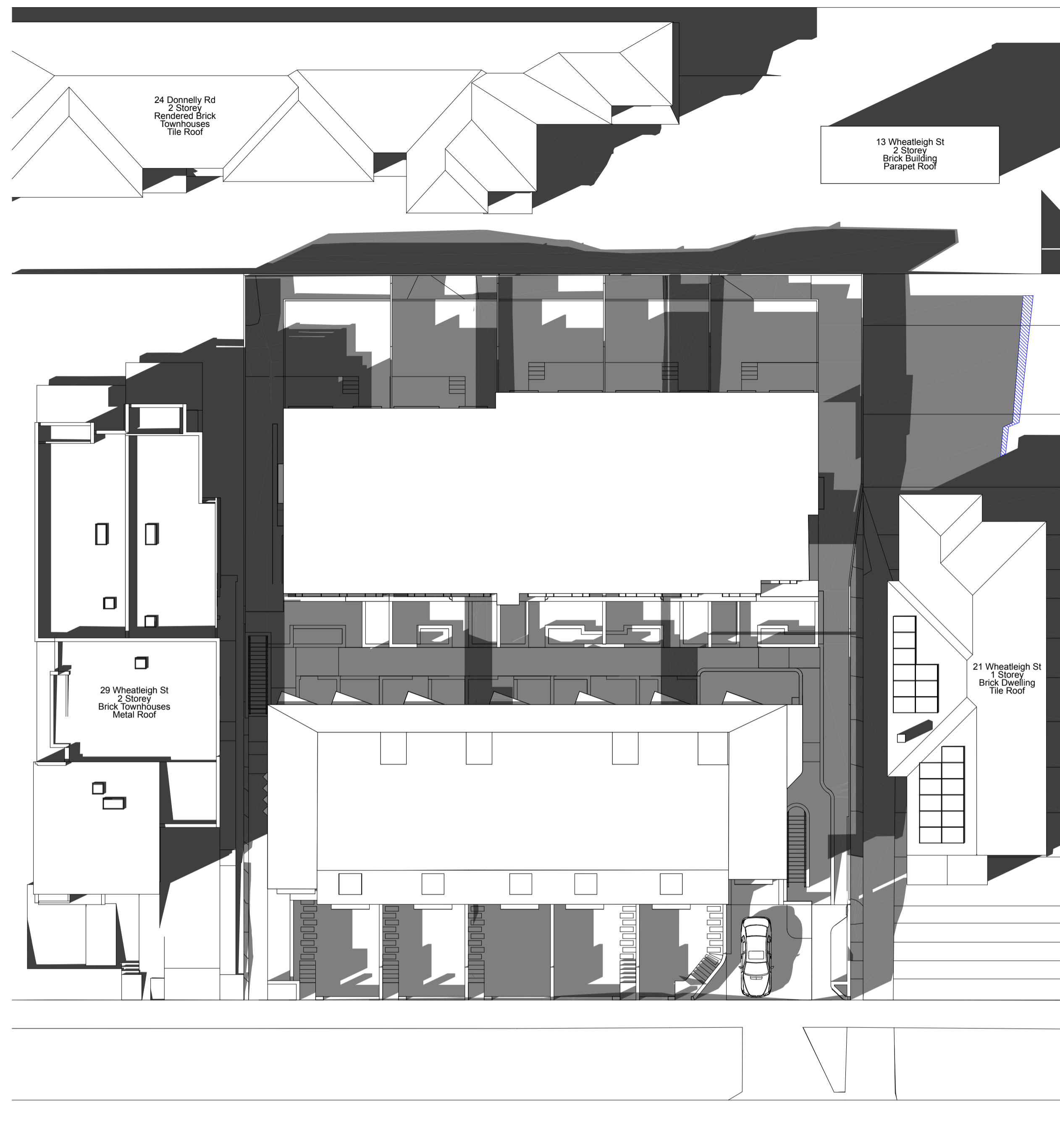
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group



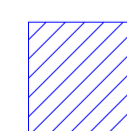
title Shadow Diagrams 21 June
 Sheet 3
issue Development Application

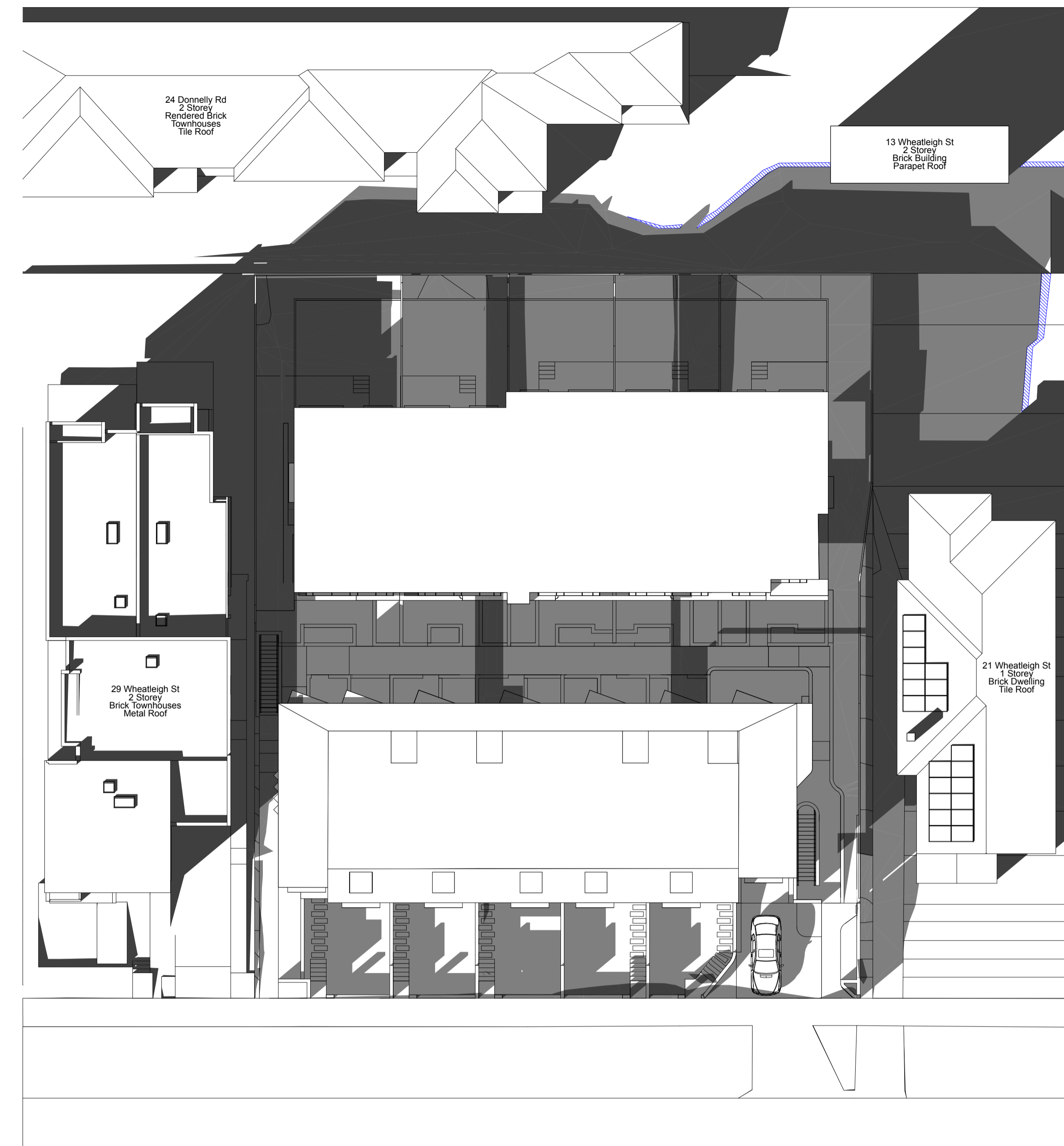
job no. MPWS
drawn ABZ
checked MMK
scale 1:200
 @A1

dwg no. DA20
revision 5



Shadows 21 June 1pm
1:200

-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows



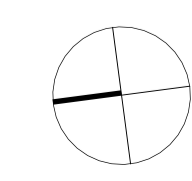
Shadows 21 June 2pm
1:200

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4	2/7/21	DA Issue
5	25/11/21	DA Issue

notes

file: MPWS6.2-211124.DA Amendments.pln
 print date & time: 25/11/21@3:37 pm



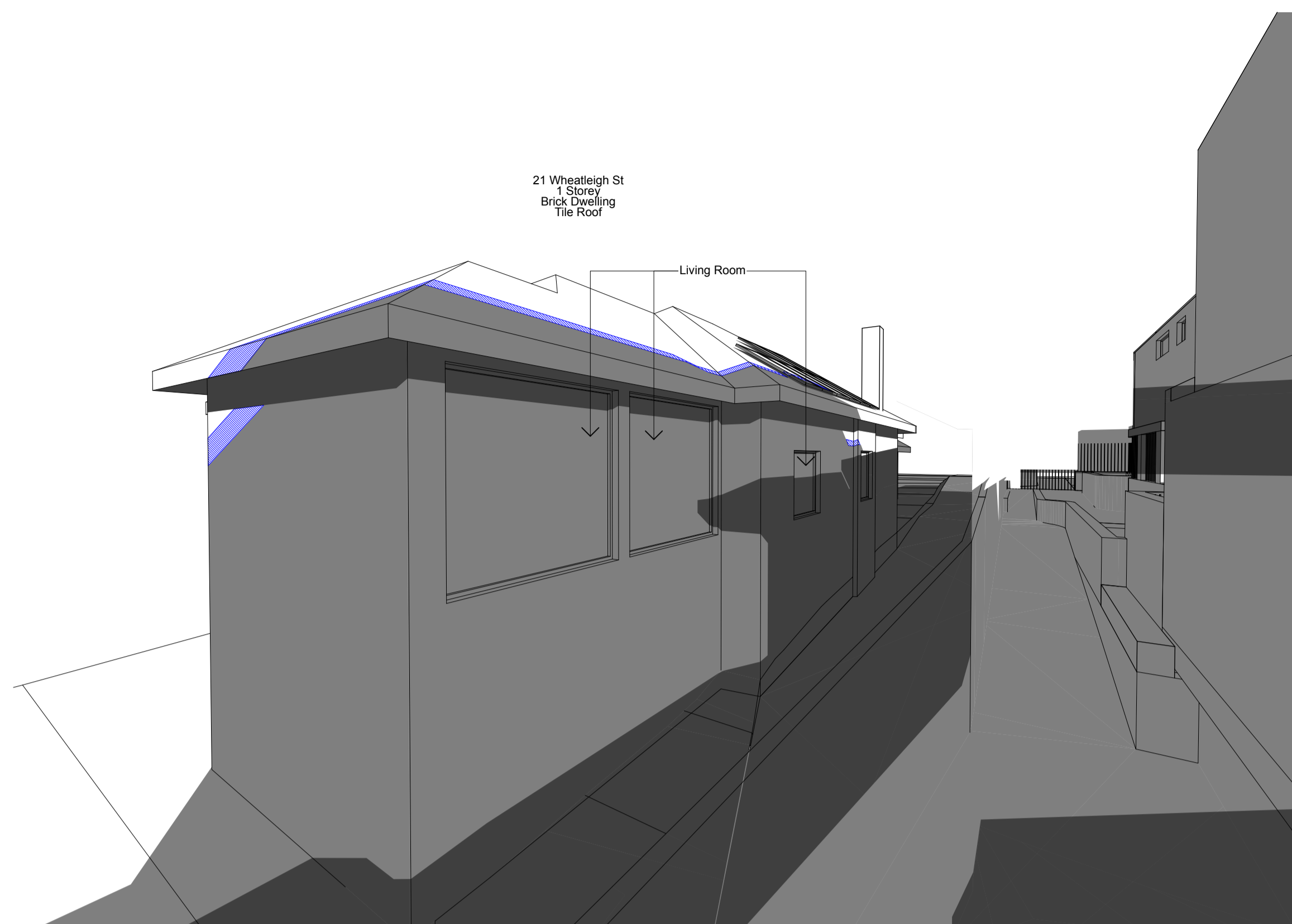
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

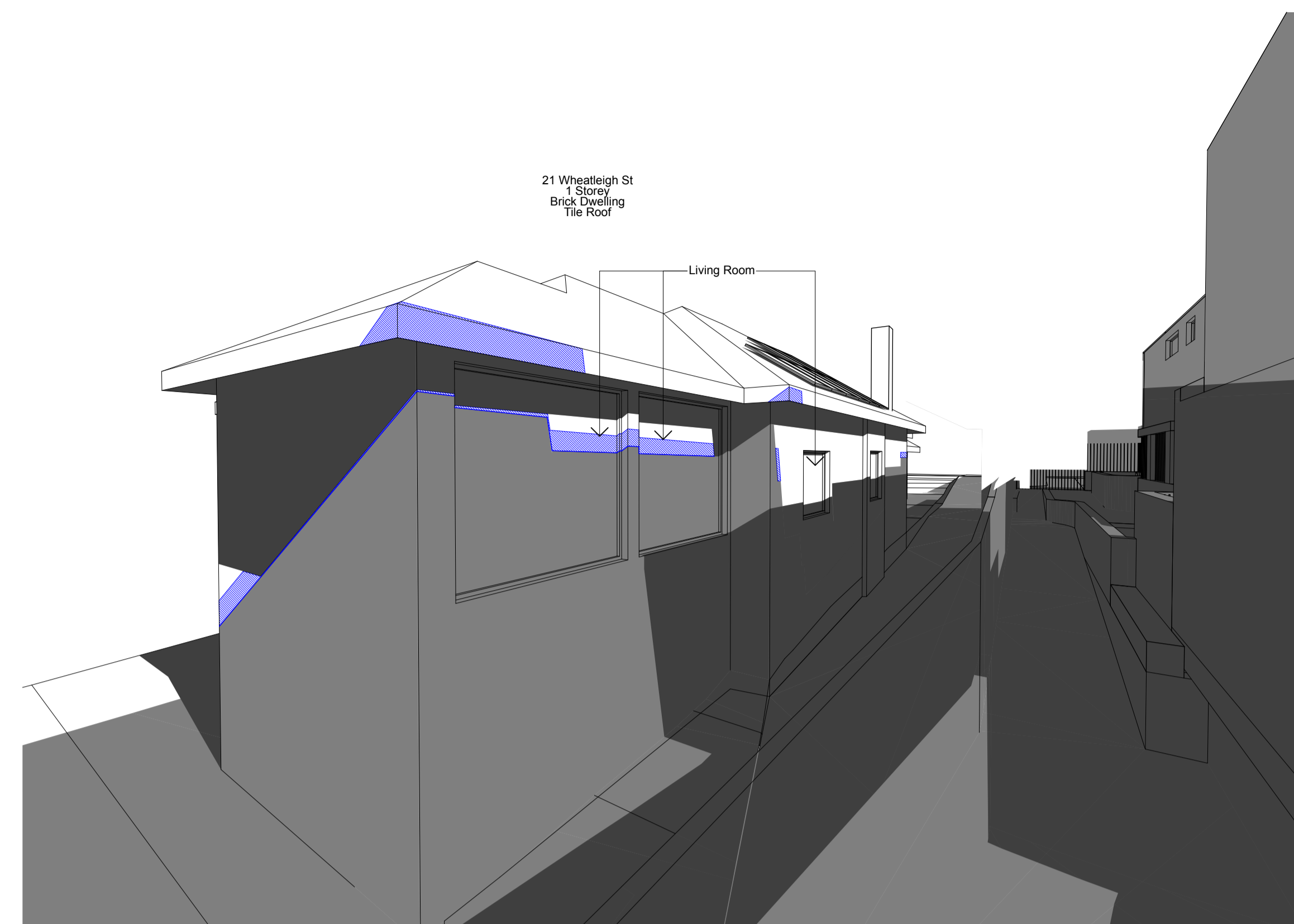
title Shadow Diagrams 21 June
 Sheet 4
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:200
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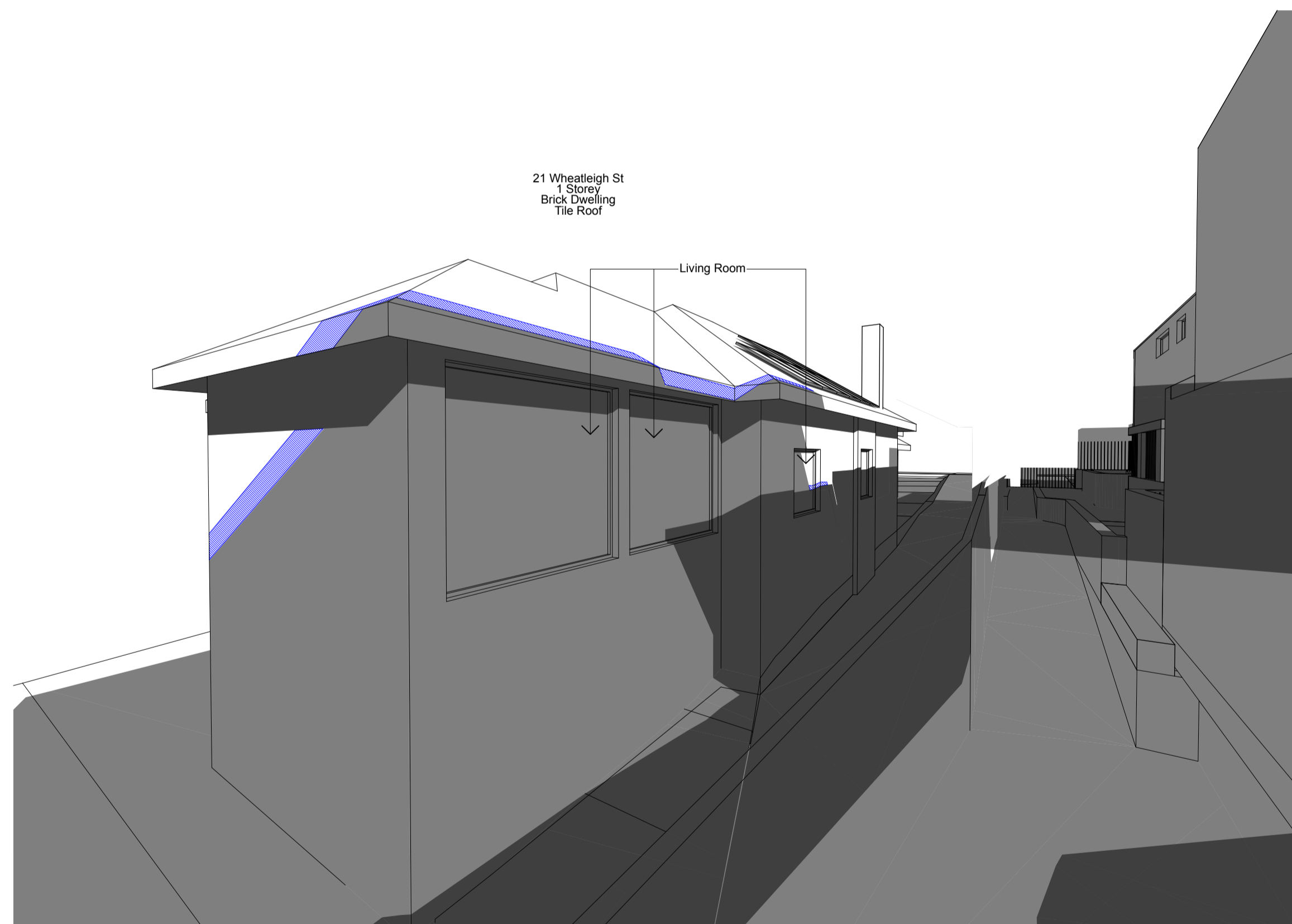
dwg no. DA21
revision 5



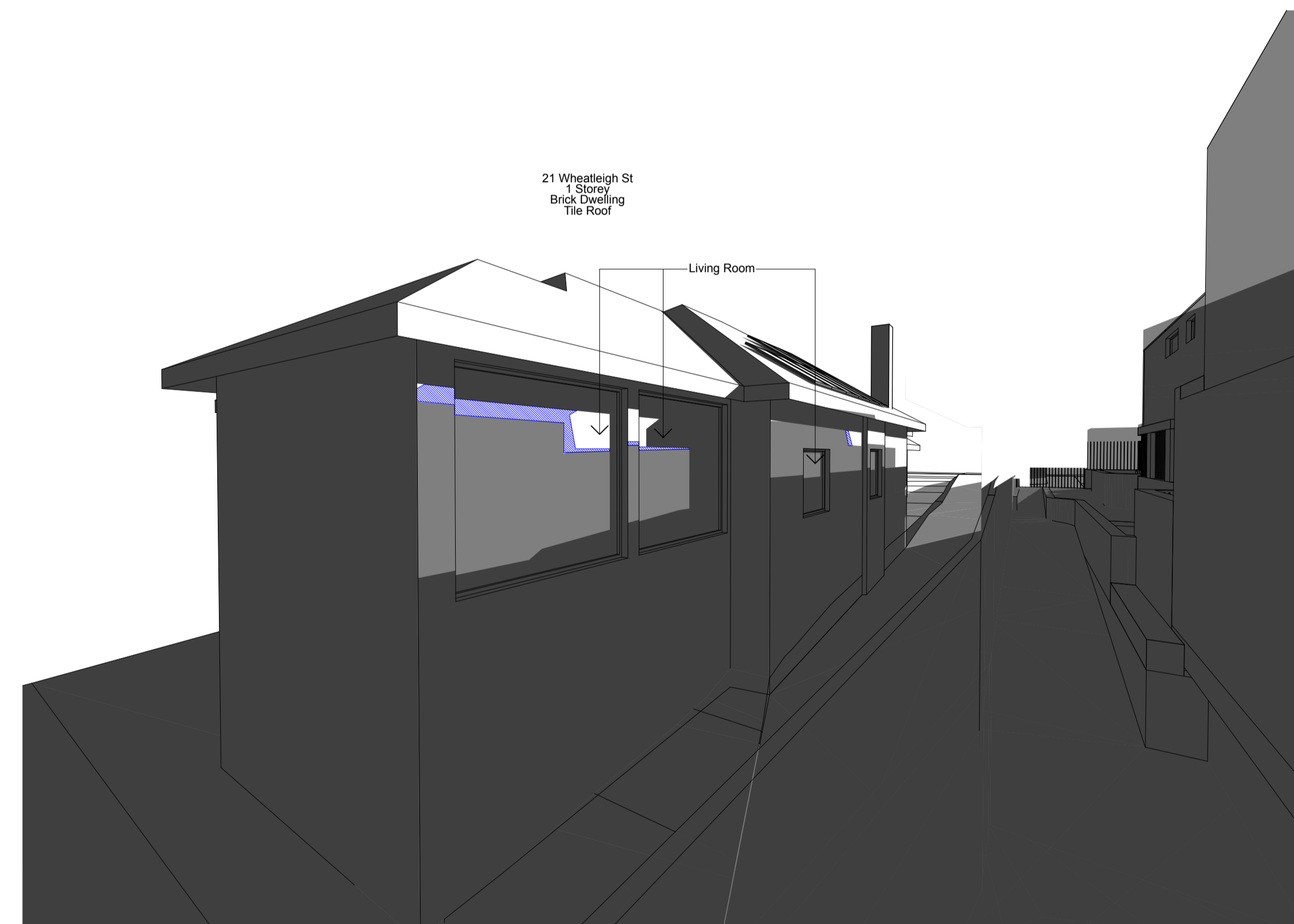
Elevational Shadows 21 June 9am



Elevational Shadows 21 June 11am



Elevational Shadows 21 June 10am



Elevational Shadows 21 June 3pm

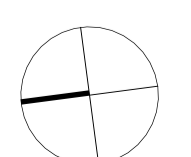
Existing Shadows
 Reduced Shadows

Proposed Shadows

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4	2/7/21	DA Issue
5	25/11/21	DA Issue

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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Shadow Diagrams 21 June
 Sheet 5
issue Development Application

job no. MPWS
drawn ABZ
checked MMK
scale 1:200
 @A1

dwg no. DA22
 revision
5



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revisions		
Rev'd	Date	Description
A	5/2/21	Issue
B	17/3/21	Sketch Rev B
C	26/3/21	Preliminary Issue
D	1/4/21	Sketch Design Rev E
F	12/4/21	Preliminary Pre-DA Issue
4	27/21	DA Issue
5	25/11/21	DA Issue

notes

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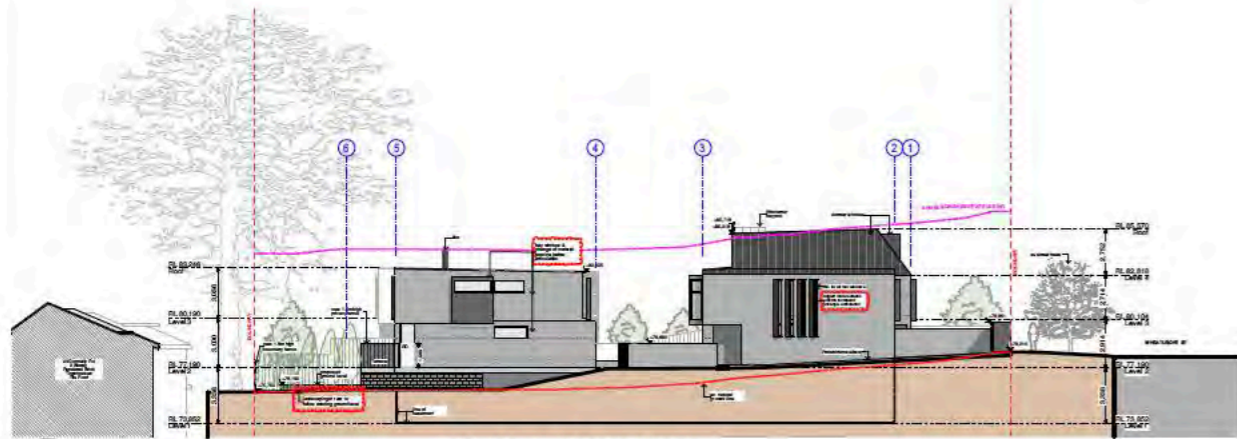
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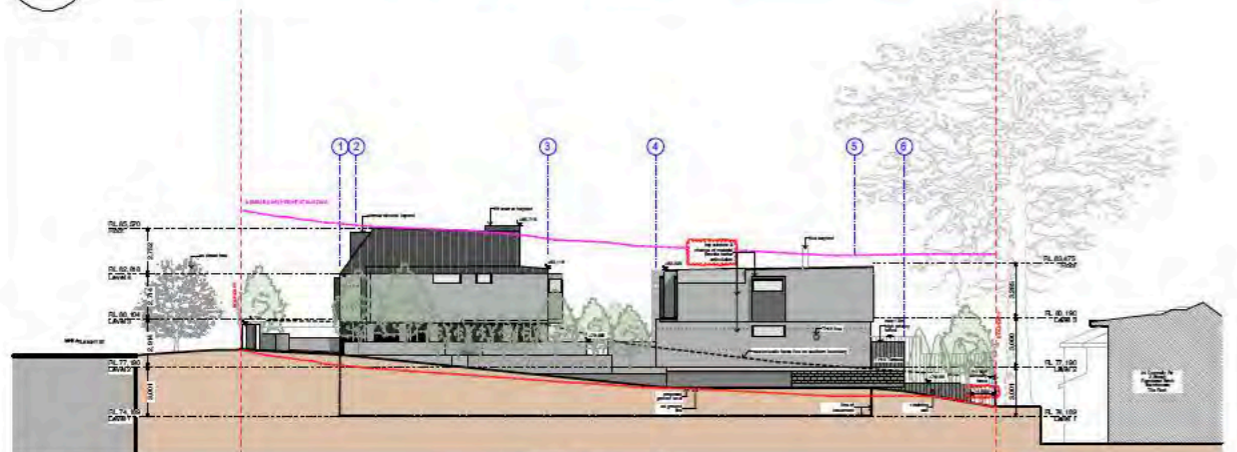
project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title 3D Street Views
issue Development Application

job no.	MPWS	dwg no.	DA25
drawn	ABZ	revision	5
checked	MMK		
scale			



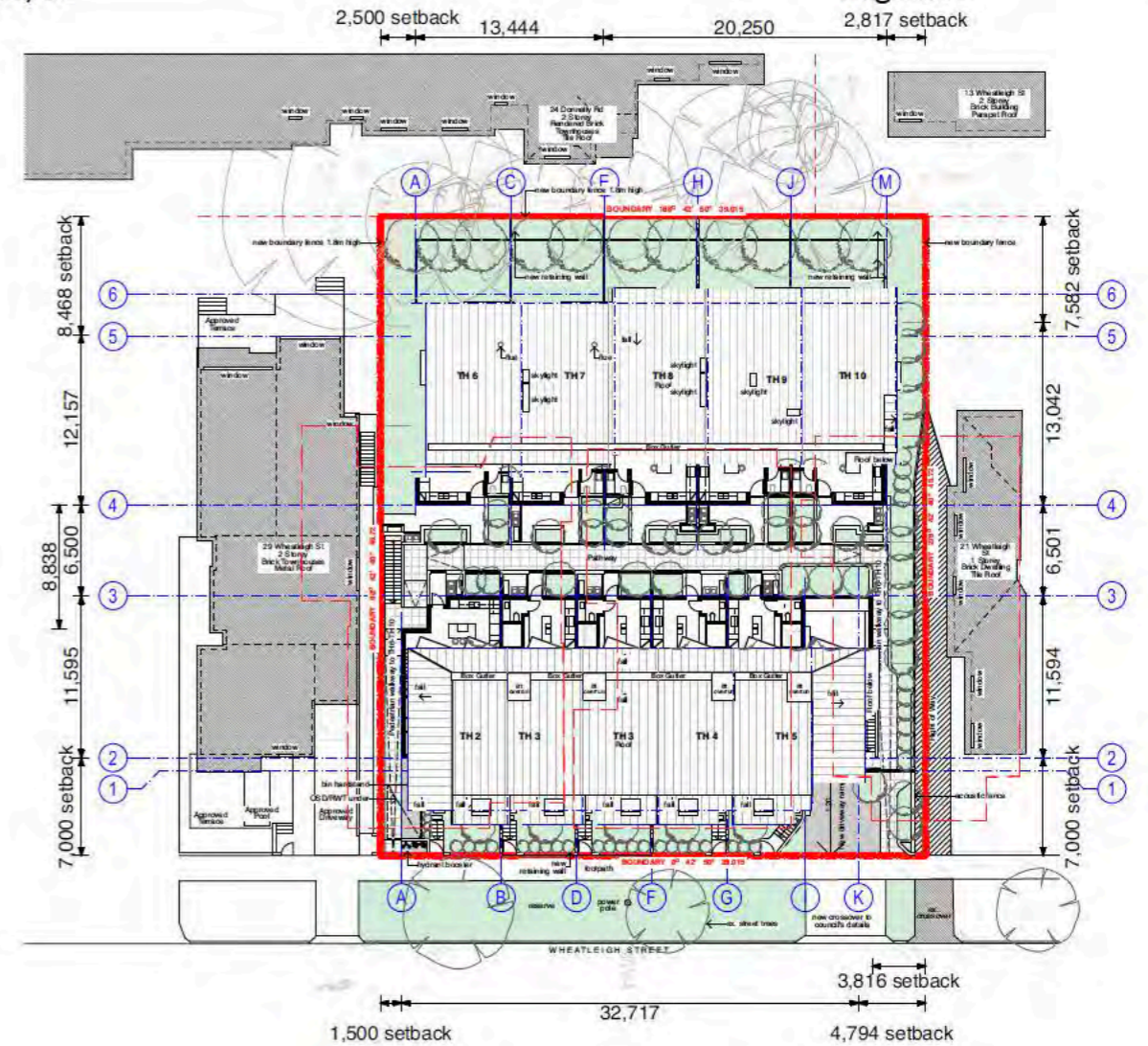
Northern Elevation



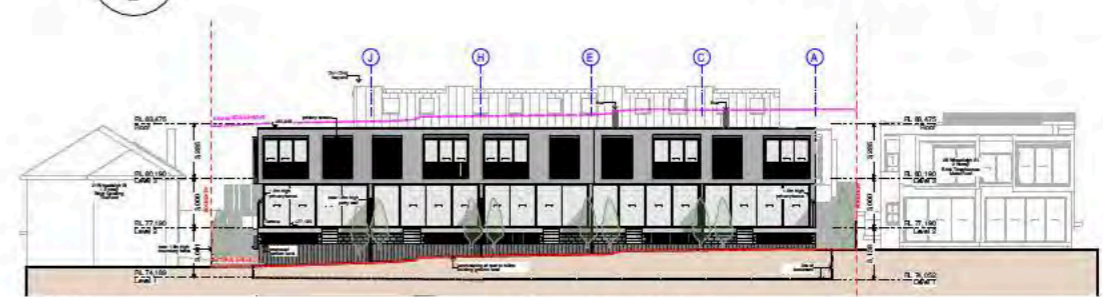
Southern Elevation



Western Elevation



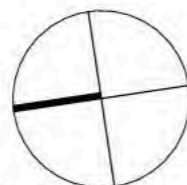
Level 2-Site Plan



Eastern Elevation

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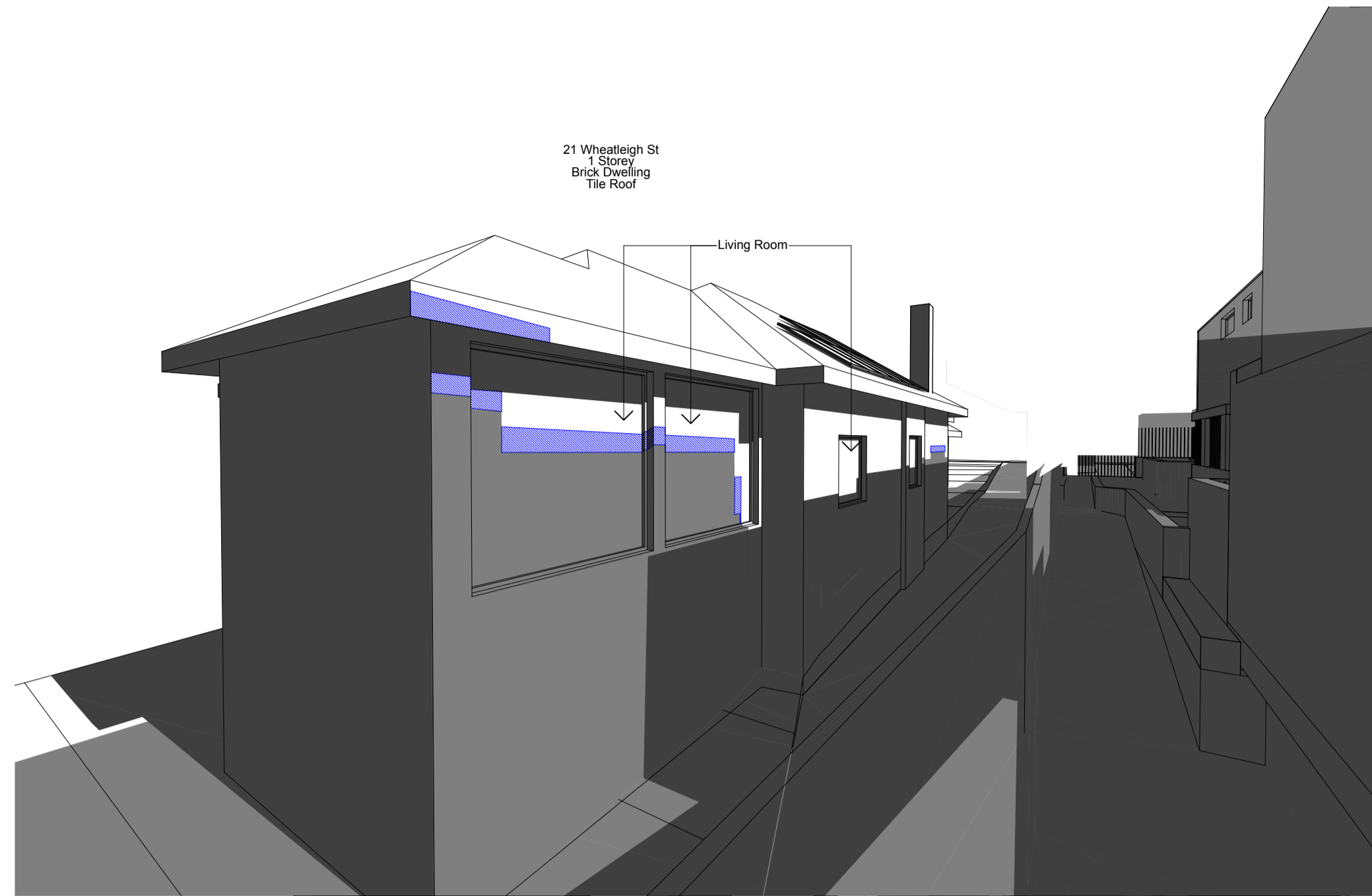
file: MPWS6.2-211124 DA Amendments.pln
print date & time: 25/11/21@3:37 pm

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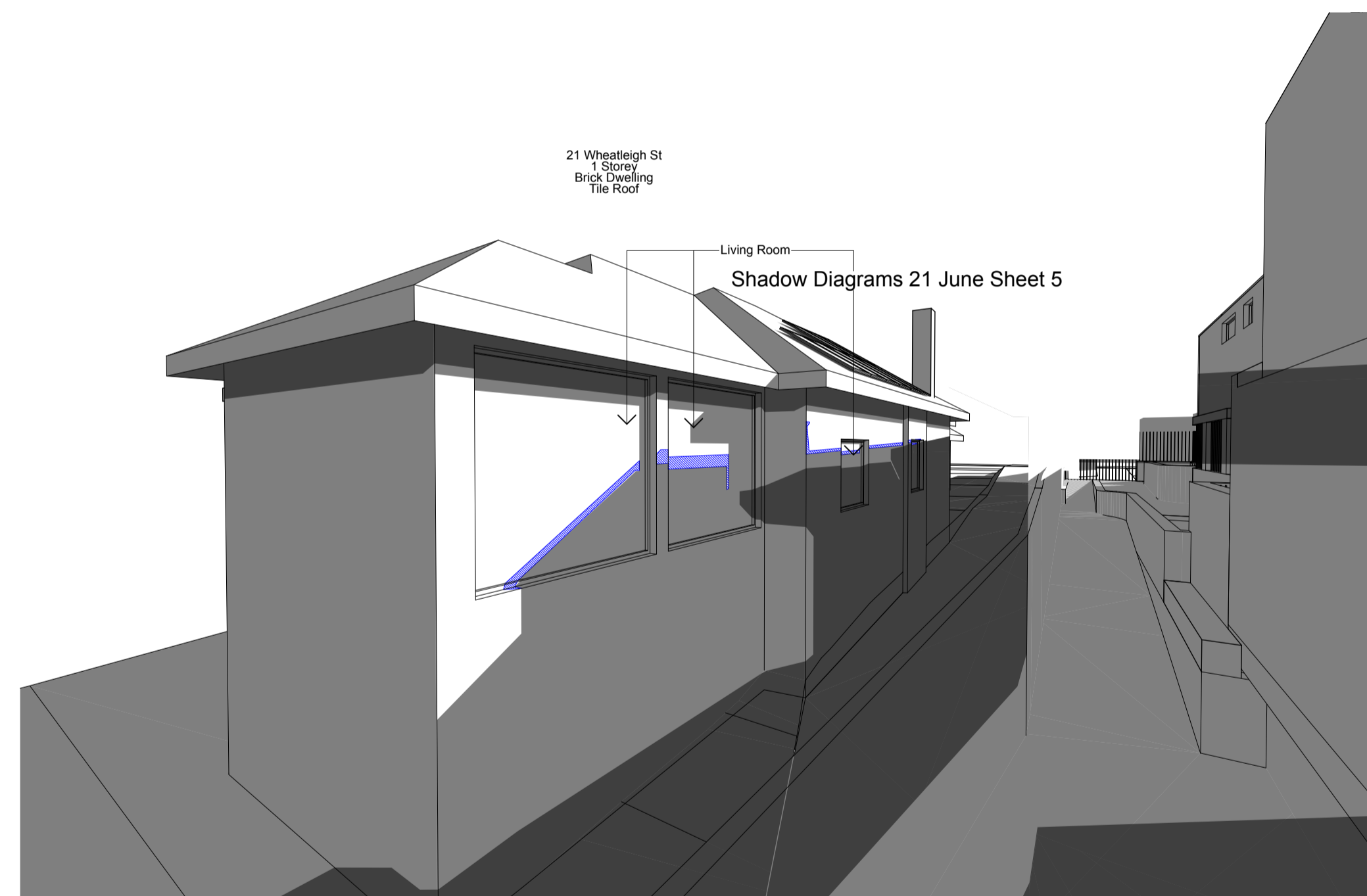
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address	23-27 Wheatleigh St Crows Nest NSW
client	Metro Property Group

title	Notification Plan
issue	Development Application

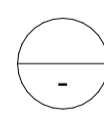
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drawn	MMK	revision	
checked	MMK		
scale	NTS @A4		5



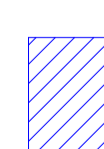


21 June 11:30am



21 June 2:30pm



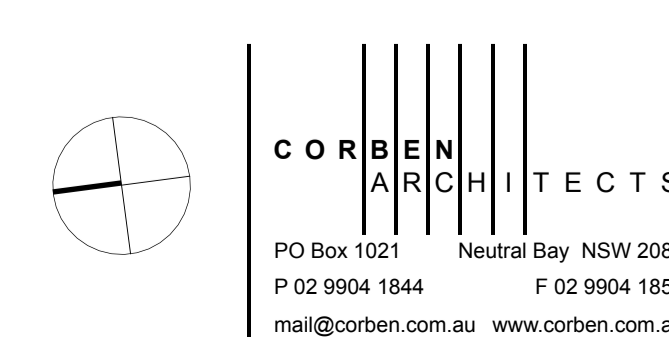
-  Existing Shadows
-  Proposed Shadows
-  Reduced Shadows

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revisions		
Rev'd	Date	Description
5	25/11/21	DA Issue

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 print date & time: 25/11/21@3:36 pm



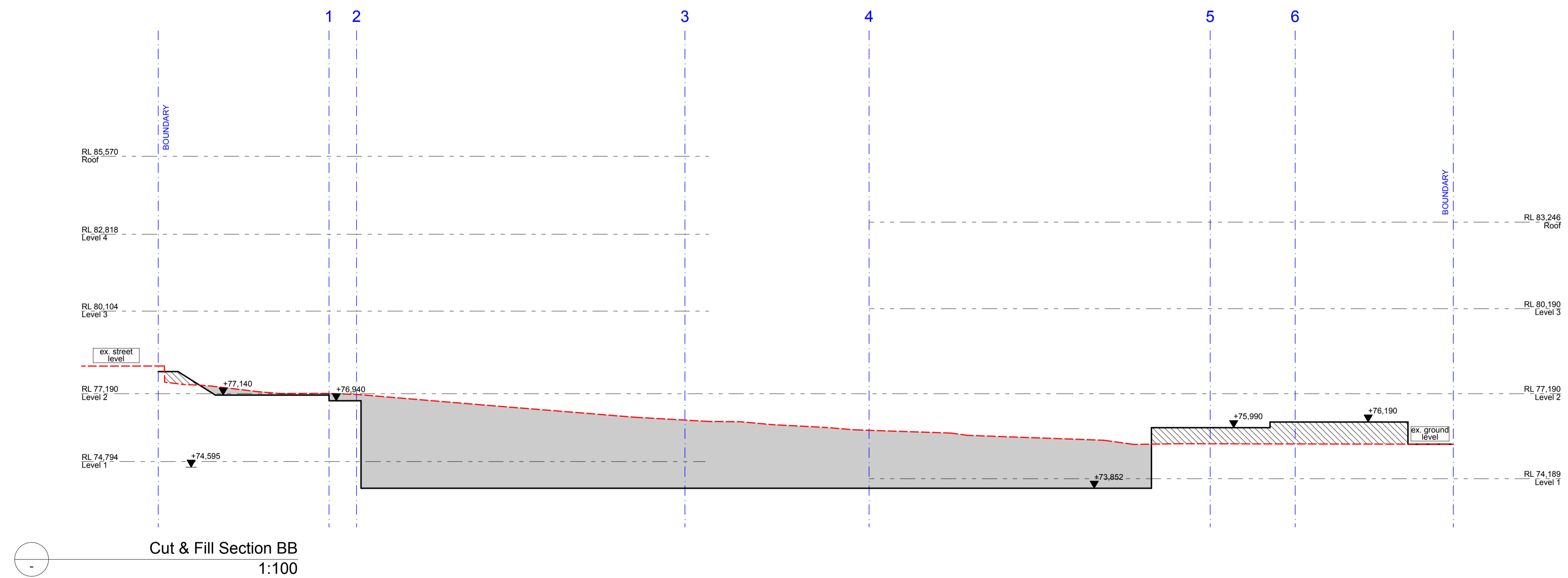
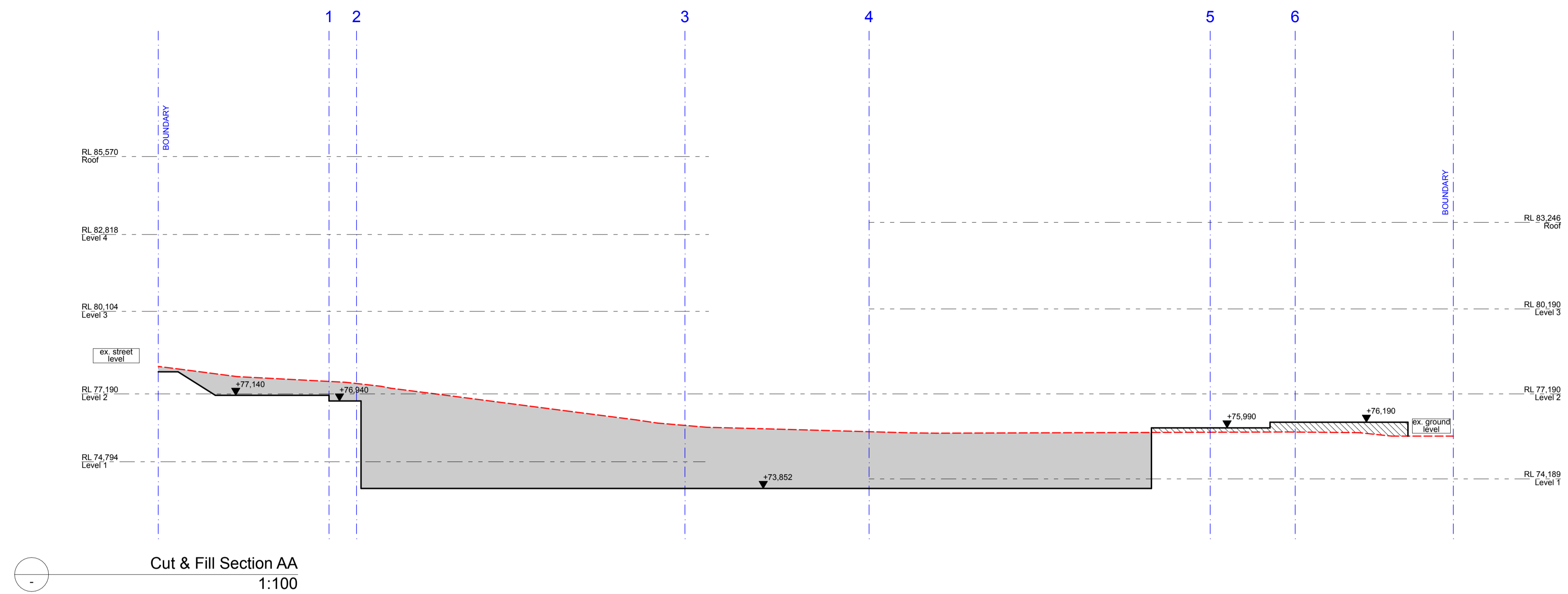
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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crows Nest NSW
client Metro Property Group

title Shadow Diagrams 21 June
 Sheet 6
issue Development Application

job no. IMPWS
drawn ABZ
checked MMK
scale 1:200
@A1

dwg no. DA27
revision 5



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revisions		
Rev#	Date	Description
5	25/11/21	DA Issue

notes

file: MPWS6.2-211124.DA Amendments.pln
 print date & time: 25/11/21@3:35 pm

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project Wheatleigh St Town Houses
address 23-27 Wheatleigh St
 Crowds Nest NSW
client Metro Property Group

title Cut & Fill Sections
issue Development Application

job no.	MPWS	dwg no.	DA29
drawn	ABZ	revision	5
checked	MMK	scale	1:100 @A1

LANDSCAPE APPROACH EXISTING TREES

The trees and vegetation on the land and immediate neighboring properties are a mix of native and ornamental exotic species including some trees identified as weed species in the North Sydney Council Development Control Plan. In total, 22 trees were surveyed within the site and within neighboring properties. Other vegetation on the site has not been assessed and include trees/vegetation under 5 meters in height and 5 meters wide that do not fulfill the definition of a tree under the Council's Development Control Plan. Weed species and trees on private land with no other access options were not surveyed.

Trees within the site are low to medium urban trees and do not have significant amenity or contribution to the character of the area that could not be replaced and improved.

ITEMS TO NOTE:

1. The site and immediate surrounding properties are not listed as heritage items.
2. The site is not listed as eligible for RFS 10:50 bush fire vegetation hazard reduction clearing
3. Land adjoining SP4123 does have connectivity to heritage listed land

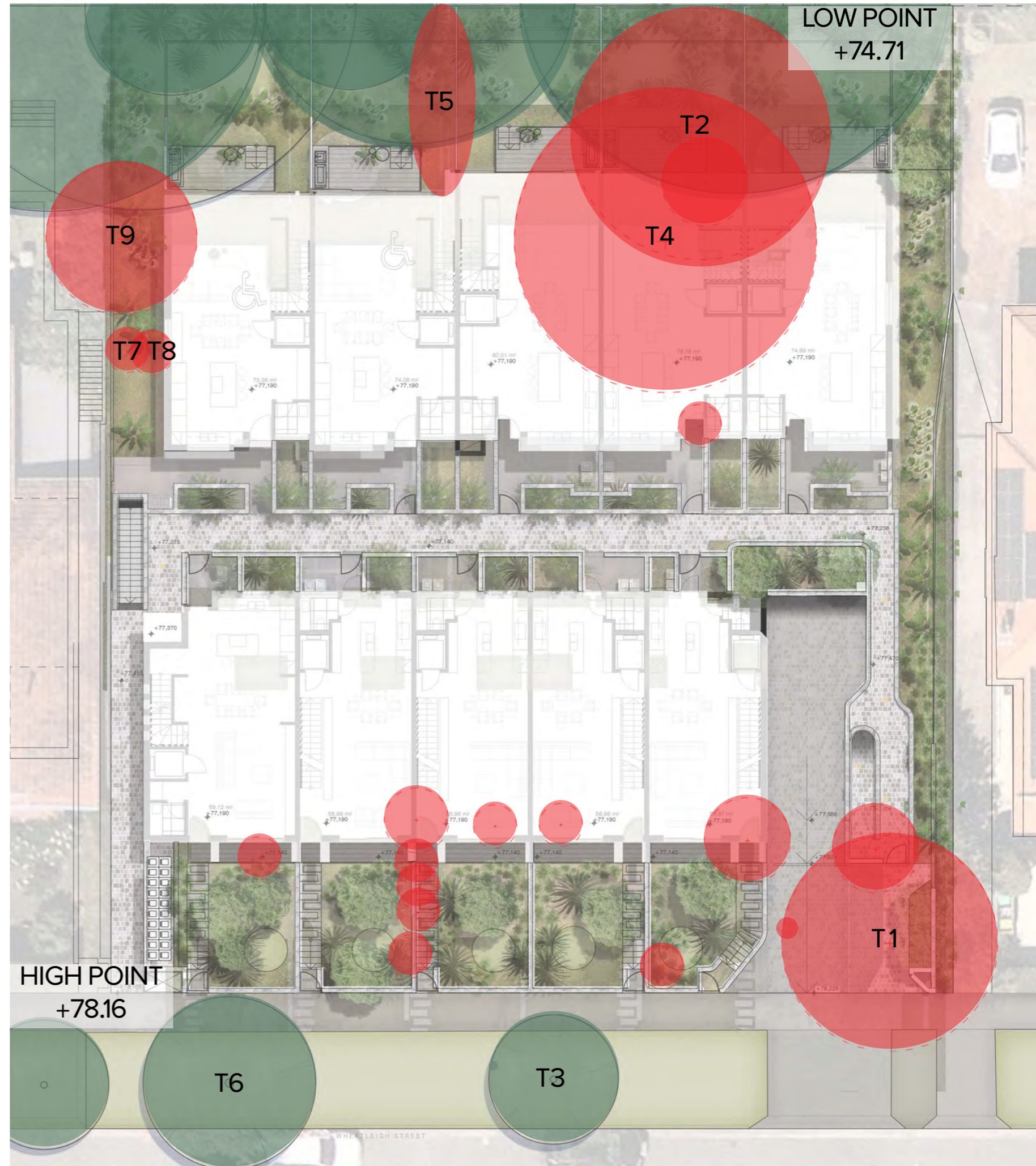
NORTH SYDNEY COUNCIL

Zoning
B1 Neighbourhood Centre
R3 Medium Density Residential (Wheatleigh Rd only)

Planning Area
'Crows Nest Neighbourhood'

Streetscape
- Tree lined streets with grassed verges and concrete footpaths
- Buildings setback from the boundary and aligned with the street frontage
- Low brick fences

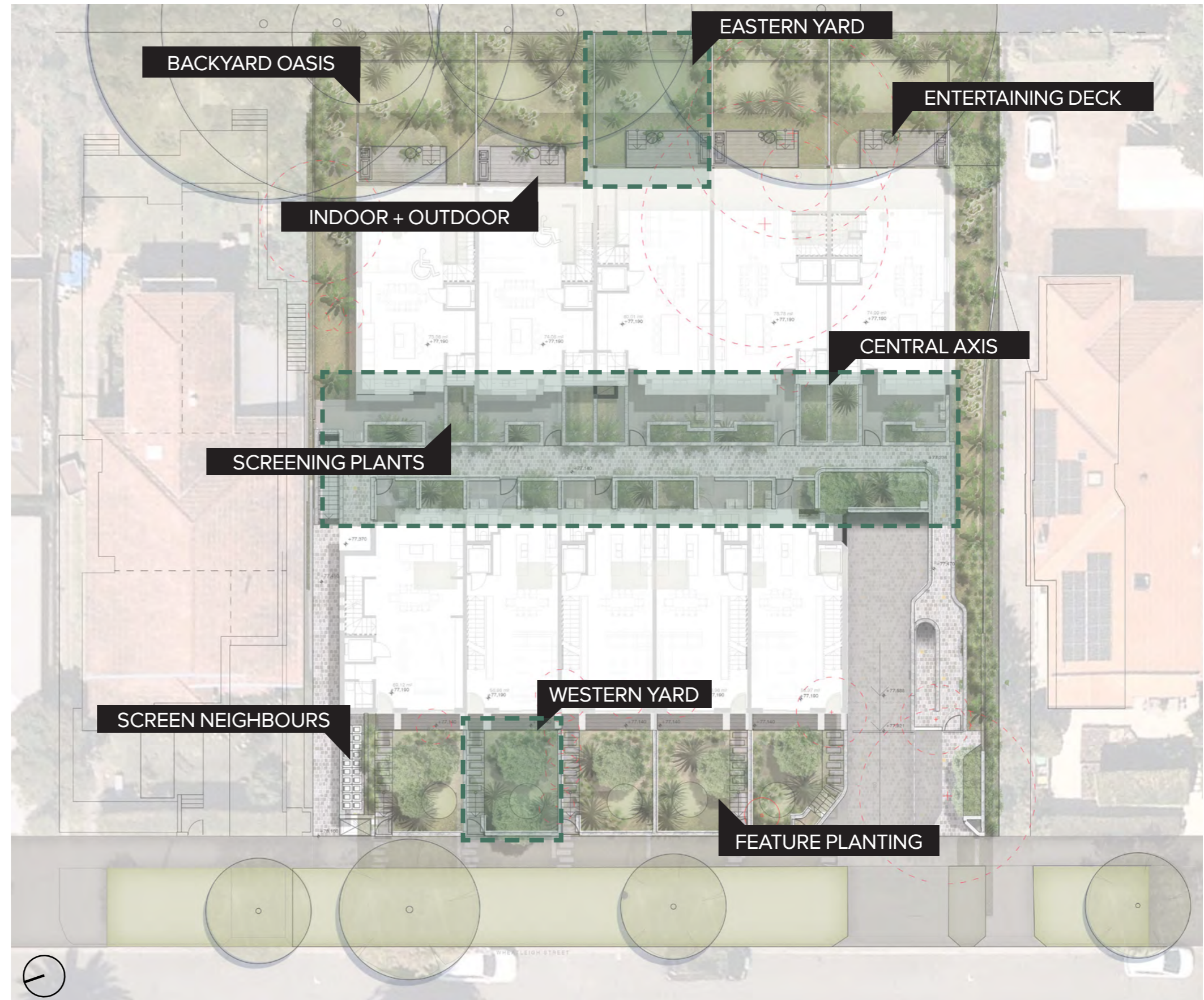
Form, Massing & Scale
- Retention of low density residential character along Wheatleigh Street















Landscape Concept Landscape Masterplan

DISTINCT LANDSCAPE QUALITIES....

- Garden lead haven
- Plant lovers delight
- Maximising an experience of the existing canopy



Landscape Concept Planting Palette

TREES	 <i>Cupaniopsis anacardioides</i>	 <i>Banksia integrifolia</i>	 Tree Aloe	SCREENING	 <i>Waterhousea floribunda</i>
	 <i>Eucalyptus mannifera 'Little Spotty'</i>	 <i>Olea europaea</i>			
SHRUBS & ACCENTS	 <i>Xanthorrhoea glauca</i>	 <i>Plectranthus argentatus</i>	 <i>Westringia fruticosa 'Blue Gem'</i>	 <i>Philodendron 'Xanadu'</i>	 <i>Correa alba 'Andrews'</i>
		 <i>Eremophila glabra prostrate</i>			
GROUNDCOVERS	 <i>Trachelospermum jasminoides</i>	 <i>Hedera helix</i>	 <i>Casuarina glauca 'Cousin It'</i>	 <i>Viola hederacea</i>	 <i>Ajuga australis</i>
		 <i>Senecio serpens</i>			
				GRASSES	 <i>Lomandra longifolia 'Tanika'</i>
			 <i>Dianella 'Cassa Blue'</i>		
			 <i>Dianella tasmanica 'Emerald Arch'</i>		
					 <i>Carex comans 'Frosted Curls'</i>

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21-735 - WHEATLEIGH STREET PLANT SCHEDULE					
CODE	BOTANIC NAME	COMMON NAME	MATURE SIZE (h x w) (m)	PROPOSED POT SIZE	QUANTITY
TREES & PALMS					
Ad	<i>Aloidendron barberae</i>	Tree Aloe	8 x 4 (min 3 h)	200L	24
Bi	<i>Banksia integrifolia</i>	Coastal Banksia	15 x 4	200L	17
Ca	<i>Cupaniopsis anacardioides</i>	Tuckeroo	8 x 5	200L	9
Em	<i>Eucalyptus mannifera</i>	Brittle Gum	20 x 8	200L	5
Gr	<i>Grevillea robusta</i>	Silky Oak	8 x 2	200L	1
Jm	<i>Jacaranda mimosifolia</i>	Jacaranda	20 x 8	400L	1
Oe	<i>Olea europaea</i>	Olive	6 x 3	200L	3
Wf	<i>Waterhousea floribunda</i>	Weeping Lilly Pilly	15 x 4	200L	91
SHRUBS & ACCENTS					
Coa	<i>Correa alba</i>	White Correa	1.5 x 2	300mm	177
Eg	<i>Eremophila glabra</i>	Emu Bush	2 x 2	300mm	151
Pa	<i>Plectranthus argentatus</i>	Silver spurflower	1 x 1.5	300mm	40
Px	<i>Philodendron xanadu</i>	Xanadu	0.8 x .2	300mm	151
Wf	<i>Westringia fruticosa</i>	Coastal Rosemary	2 x 5	300mm	206
Xg(a)	<i>Xanthorrhoea glauca</i>	Grass Tree	2 x 2	75L	15
Xg(b)	<i>Xanthorrhoea glauca</i>	Grass Tree	1 x 1	75L	12
Xg(c)	<i>Xanthorrhoea glauca</i>	Grass Tree	0.7 x 1	75L	12
GROUNDCOVERS					
Aa	<i>Ajuga australis</i>	Austral bugle	0.5 x 3	140mm	36
Cg	<i>Casuarina glauca</i>	Cosuin It	0.5 x 3	140mm	231
Hh	<i>Hedera helix</i>	English Ivy	0.5 x 3	140mm	84
Ss	<i>Senecio serpens</i>	Blue Chalk Stick	0.5 x 3	140mm	84
Tj	<i>Trachelospermum jasminoides</i>	Star Jasmine	0.5 x 1	140mm	120
Vh	<i>Viola hederacea</i>	Native Violet	0.5 x 2	140mm	36

C	Development Application	LM	MB	25.11.2021
B	Development Application	LM	MB	19.11.2021
A	Development Application	LM	MB	02.07.2021
Issue	Revision Description	Drawn	Check	Date

Not for Construction

Project

WHEATLEIGH STREET

23 - 27 Wheatleigh Street Crows Nest

Development Application

Client Architect

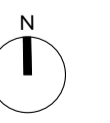

Drawing No. Drawing Name

L-400 Plant Schedule
Ground Floor

Job No. 20-735

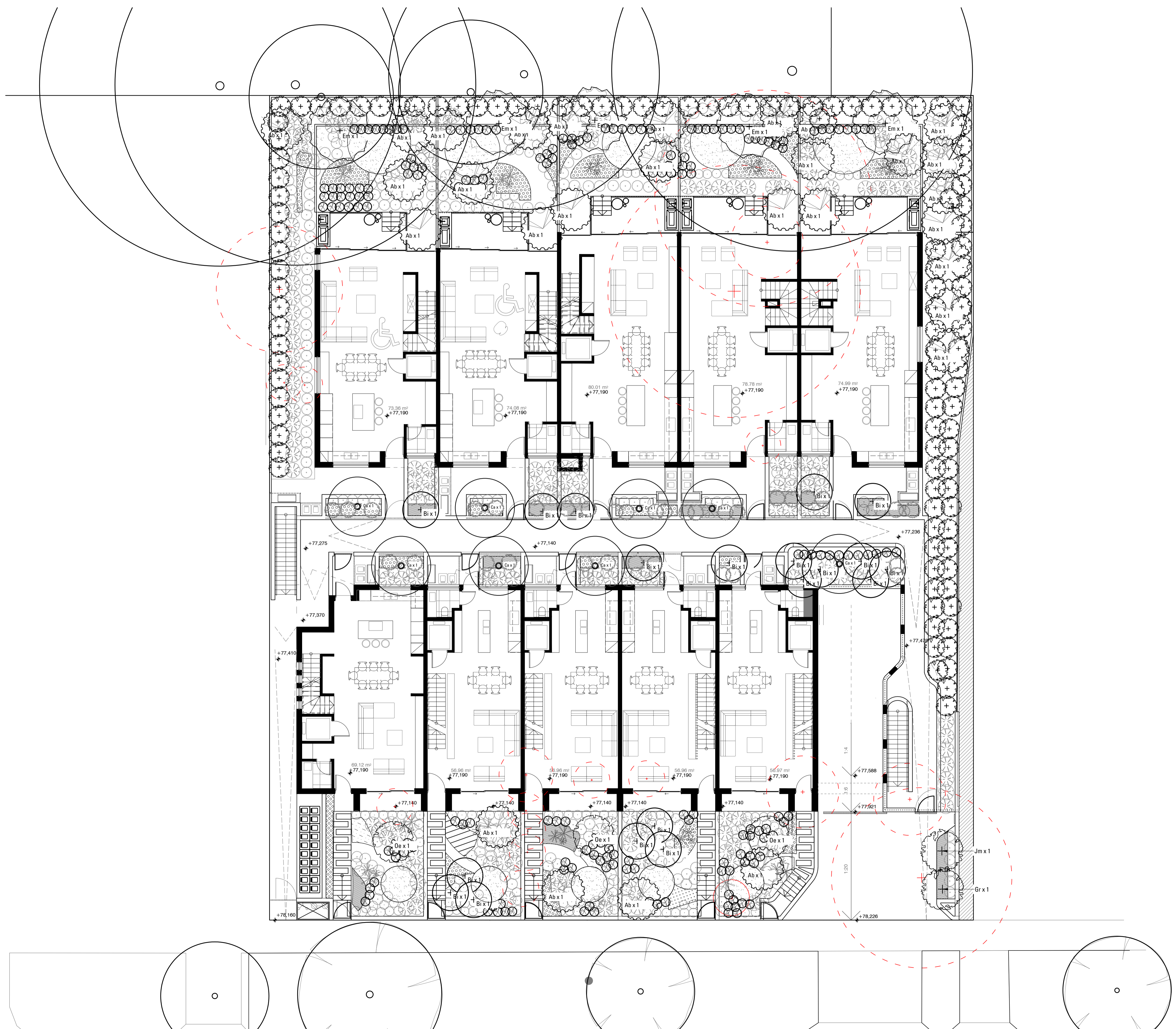
Issue C

Scale



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SOFTWORKS

- EXISTING TREES TO BE RETAINED
- EXISTING TREES TO BE REMOVED

TURF

TREES

- Ab (Aloidendron barberae)
- Bi (Banksia integrifolia)
- Ca (Cupaniopsis anacardioides)
- Em (Eucalyptus mannifera)
- Gr (Grevillea robusta)
- Jm (Jacaranda mimosifolia)
- Oe (Olea europaea)
- Wf (Waterhousea floribunda)

SHRUBS + ACCENTS

- Coa (Correa alba)
- Eg (Eremophila glabra)
- Px (Philodendron xanadu)
- Pa (Plectranthus argentatus)
- Wf (Westringia fruticosa)
- Xg (Xanthorrhoea glauca)

GROUND COVER

- Aa (Ajuga australis)
 - Cg (Casuarina glauca)
 - Hh (Hedera helix)
 - Ss (Senecio serpens)
 - Tj (Trachelospermum jasminoides)
 - Vh (Viola hederacea)
- GRASSES**
- Cc (Carex comans)
 - Dc (Dianella caerulea)
 - Dt (Dianella tasmanica)

Issue	Revision Description	Drawn	Check	Date
C	Development Application	LM	MB	25.11.2021
B	Development Application	LM	MB	19.11.2021
A	Development Application	LM	MB	02.07.2021

Not for Construction

Project
WHEATLEIGH STREET
23 - 27 Wheatleigh Street Crows Nest

Development Application

Client: Architect
INDESCO CORRELL DIRECTS

Drawing No. Drawing Name
L-401 Softworks Plan Ground Floor

Job No. 20-735
Issue C
Scale 1:100@A1

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**DEMOLITION AND CONSTRUCTION OF MULTI DWELLING HOUSING
23-27 WHEATLEIGH STREET, CROWS NEST
CLAUSE 4.6 VARIATION TO BUILDING HEIGHT CONTROL UNDER CLAUSE
4.3 OF NSLEP2013**

INTRODUCTION

This request for variation of the height control under Clauses 4.3 of North Sydney Local Environmental Plan 2013 is made pursuant to the provisions of Clause 4.6 as follows.

4.6 Exceptions to development standards

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*
- Note.** When this Plan was made it did not include all of these zones.
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
- (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which [State Environmental Planning Policy \(Building Sustainability Index: BASIX\) 2004](#) applies or for the land on which such a building is situated,*
 - (c) *clause 5.4,*
 - (ca) *in relation to land identified as "Land in St Leonards" on the [Exceptions to Development Standards Map](#)—clause 4.3(2) by more than 3 metres (excluding plant rooms and similar structures),*
 - (cb) *clause 6.3(2)(a) and (b),*
 - (cba) *clause 6.19A,*
 - (cc) *clause 6.20.*

OBJECTIVES OF CLAUSE 4.6

Clause 4.6 permits variations to development standards subject to a written request from the applicant satisfying the provisions of the clause. The following written request is submitted in respect of the proposed variation to the building height control of 8.5m contained at clause 4.3 of NSLEP 2013.

The objectives of Clause 4.6 are to provide for an appropriate degree of flexibility in applying development standards in order to achieve better outcomes for and from development.

The breach of the height control is necessitated by the slope to the rear of the site which requires the design of the driveway to the basement to "chase the slope". The result of this is that the dwellings on the site must be partially elevated above ground level, which results in a breach of the height control for the rear of the front row of dwellings.

The larger breaches relate to the lift overruns which will largely not be visually discernible outside the site.

The development has the visual appearance of a compliant development, being viewed as a two storey building with roof accommodation from the street and does not result in any unacceptable impacts upon adjoining properties due to the breach of the height control.

The breach of the height control allows the provision of a greater degree of articulation in the roof form, breaking what would otherwise be a long and bulky roof form. The breach for the lift overruns also results in the benefit of allowing residents to “age in place”, an important planning principle with the future aging of the population.

Therefore, the flexible application of the development standard is appropriate in this case, resulting in a better outcome for and from the development.

DEVELOPMENT STANDARD

The building height control is a numerical development standard, being consistent with the definition of “*development standards*” contained within Section 1.4 of the Environmental Planning and Assessment Act as follows.

“development standards” means provisions of an environmental planning instrument or regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point;*
- (b) the proportion or percentage of the area of a site which a building or work may occupy;*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;*
- (d) the cubic content or floor space of a building;*
- (e) the intensity or density of the use of any land, building or work;*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment;*
- (g) the provision of facilities for the standing, movement, parking, servicing, maneuvering, loading or unloading of vehicles;*
- (h) the volume, nature and type of traffic generated by the development;*
- (i) road patterns;*
- (j) drainage;*
- (k) the carrying out of earthworks;*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows;*
- (m) the provisions of services, facilities and amenities demanded by development;*
- (n) the emission of pollution and means for its prevention or control or mitigation; and*
- (o) such other matters as may be prescribed;”*

The relevant component of the definition in this instance is:

“(c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work;”

The provisions of Clause 4.3 is not prohibited from the provisions of Clause 4.6 by way of either Clause 4.6(6) or (8).

BREACH OF CONTROL

Clause 4.3 sets a maximum height of buildings for the site of 8.5m, with height measured from the existing ground level.

The rear row of dwellings has a maximum height of 7.2m - 7.5m at the front and 7.4m – 8.2m at the rear, complying with the control.

The proposal breaches the maximum 8.5m height control at the rear of the front row of dwellings, and most significantly in relation to the lift overruns.

The front row of dwellings has a maximum height of 7.49m – 8.5m at the front, complying with the control.

The front row of dwellings has a maximum height of 8.1m (southern side) – 9.3m (northern side) at the rear, breaching the control by up to 800mm

The lift overruns vary in height from 8.5m (southernmost) to 9.5m (northernmost), breaching the height control by up to 1.0m.

It is noted that all of the above heights have been calculated using the spot levels on the survey plan and extrapolation of levels where the existing dwellings are located based on spot levels either side of the dwelling.

The areas of breach of the height control are relatively minor breaches at the rear of the upper floor and the lift overruns. The breaches do not result in any increase in building density on the site, but rather are a result of the rearward slope of the site as can be appreciated in the following section.



Section shows height steps with slope, with minor breaches not increasing dwelling yield

UNREASONABLE AND UNNECESSARY

Determining whether strict compliance with the control is unreasonable and unnecessary, has been addressed in a number of judgements of the Land and Environment Court and the correct method of consideration has recently been summarised in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 as follows:

16. *As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in Wehbe v Pittwater Council at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.*
17. *The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*

18. *A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
19. *A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
20. *A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
21. *A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.*
22. *These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.*

It is unreasonable and unnecessary to strictly apply the building height control where the development as proposed would satisfy the objectives of the control and the zone objectives, which are addressed following.

Objectives of Building Height Controls

The objectives of the building height control are as follows and as can be seen in the discussion below, the proposal is consistent with the objectives of the control:

- (a) *to promote development that conforms to and reflects natural landforms, by stepping development on sloping land to follow the natural gradient,*

The design of the development steps down from two storey with rooms in the roof to two storey at the rear commensurate with the slope of the site from the front to the rear as can be seen in the previous section. Therefore, notwithstanding this breach of the control, the proposal satisfies objective (a).

- (b) *to promote the retention and, if appropriate, sharing of existing views,*

The proposed development results in no significant impact upon views. As such, notwithstanding the breach of the control, the proposal satisfies objective (b).

- (c) *to maintain solar access to existing dwellings, public reserves and streets, and to promote solar access for future development,*

The proposed development has no detrimental impacts upon solar access to the dwellings to the north. Minimal additional shadowing results from the development to the dwellings within the multi dwelling development at 22-24 Donnelly Road to the rear of the site, with minimal additional shadowing to courtyard that will still retain appropriate solar access in accordance with the requirements of the DCP. It is noted that the development complies with the height control at the rear and as such any addition shadowing of these properties occurs from compliant components of the development.

The shadow impact upon the dwelling at 21 Wheatleigh Street has been minimised by significantly reducing the height of Dwelling 5 as it adjoins the southern boundary and increasing the setback beyond that required by the DCP. Further, the rear row of dwellings is significantly below the height control and setback further from the side boundary than required. The result is that the dwelling retains solar access to its solar panels other than for a minor 10 minutes impact at the bottom of one of the panels at 9am in midwinter.

Further, the living room windows of the dwelling and private open space both retain solar access for in excess of 3 hours at midwinter. It is also important to note that the retained solar access to the living room windows occurs to the top of the windows and as such the solar access penetration into the living rooms is maximised. Further, the shadow impact is not resultant from any element of the proposal that breaches the height control.

Accordingly, notwithstanding the breach of the control, the proposal satisfies objective (c).

(d) to maintain privacy for residents of existing dwellings and to promote privacy for residents of new buildings,

The design of the development orients the dwellings to the street frontage and rear, protecting the privacy of the neighbouring properties to the sides. Where the rear terraces are elevated, side privacy screens are proposed to protect the privacy of properties to the sides.

An appropriate rear setback is provided to protect privacy between the subject site and properties to the rear, which is further improved by the existing extensive tree cover on the property to the rear, the setback of 1.5m from the boundary before any fill is proposed and the proposed landscaping within the development.

The breaching elements of the proposal are internalised within the development and does not result in any privacy impacts upon existing residents or detriment impacts upon the privacy of proposed residents. Accordingly, notwithstanding the breach of the control, the proposal satisfies objective (d).

(e) to ensure compatibility between development, particularly at zone boundaries,

The site is located at a zone boundary, with lower density properties being located on the western side of Wheatleigh Street. The proposed height of the development as viewed from the street is compliant with the height control. As such the breach of the control does not result in any incompatibility between the development and the existing dwellings on the western side of the street.

As such, notwithstanding the breach of the height control, the development will be compatible with the height of the development in the street and therefore satisfies objective (e).

(f) to encourage an appropriate scale and density of development that is in accordance with, and promotes the character of, an area.

As discussed previously, the scale of the development is compatible with the streetscape of dwellings on the western side of the street and is also appropriate to the scale and density of the emerging character on the eastern side of the street which is zoned for medium density development. Accordingly, notwithstanding the breach of the control, the proposal satisfies objective (f).

Objectives of R3 Medium Density Zone

The objectives of the R2 zone, as follows, are satisfied by the proposed development.

- *To provide for the housing needs of the community within a medium density residential environment.*

The replacement of the three dwelling houses with ten dwellings will provide for appropriate accommodation for the housing needs of the community in a medium density environment, satisfying this objective.

- *To provide a variety of housing types within a medium density residential environment.*

The proposed development will add to the variety of housing types in the area, providing dwellings in a townhouse form that are large enough to cater for families, providing families in the area a wider choice of more affordable accommodation than detached dwelling houses, satisfying this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

This objective is not relevant to the assessment of the application.

- *To encourage the development of sites for medium density housing if such development does not compromise the amenity of the surrounding area or the natural or cultural heritage of the area.*

The design of the development has been careful to place the bulk of the building in locations where it will have the least shadow impact on 21 Wheatleigh Street, with the built form immediately adjoining that property being lowered to ensure solar access to the living areas, solar panels and private open space of that property is maintained to an appropriate degree.

The dwellings are all oriented to the front and rear to avoid overlooking neighbouring properties to the sides. The dwellings are well separated from the properties to the rear, minimising any overlooking or shadowing impact. Further, the extensive vegetation on the adjoining property and proposed on the subject site will provide significant additional privacy between the developments.

The site is not within the vicinity of any heritage item or conservation area. As such the proposal satisfies the fourth objective of the zone.

- *To provide for a suitable visual transition between high density residential areas and lower density residential areas.*

The proposed development presents visually as a two storey development with rooms in the roof within the streetscape and as such provides an appropriate transition to the lower density properties on the western side of the street. Accordingly, the design satisfies this objective of the zone.

- *To ensure that a high level of residential amenity is achieved and maintained.*

The design affords an excellent level of amenity for all dwellings, with all dwellings achieving a minimum of two hours solar access to living areas and 3 hours to private open space, cross ventilation, appropriate provision for parking and being located in an attractive landscaped setting. As such the proposal is consistent with this objective.

SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

Determining whether there are sufficient environmental planning grounds to vary a control, has been addressed in a number of judgements of the Land and Environment Court and the correct method of consideration has recently been summarised in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 as follows:

23. *As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be “environmental planning grounds” by their nature: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [26]. The adjectival phrase “environmental planning” is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
24. *The environmental planning grounds relied on in the written request under cl 4.6 must be “sufficient”. There are two respects in which the written request needs to be “sufficient”. First, the environmental planning grounds advanced in the written request must be sufficient “to justify contravening the development standard”. The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 at [31].*

The breach of the height control results from the slope of the site which falls from the front to the rear of the site.

The slope means that the driveway to the basement of the development is required to “chase the slope” with the ramp, making it impossible to provide an entirely underground car park. This means that providing a three storey built form is not possible at the rear of the site as to do so would significantly breach the height controls and detrimentally impact surrounding properties.

However, the provision of a three level built form at the front of the site in the form of a building which presents as a two storey form with rooms within the roof is beneficial to the streetscape presentation of the development. The dormer windows provided result in significant articulation of what would otherwise be a bulky and unrelieved roof form.

It is noted that in Council’s pre-DA meeting it was requested that the roof form be articulated to ensure it does not present a bulky and unrelieved form given the length of the building. The result is the reduced sized upper level floor which is compliant with the height control at the front and achieves Council’s streetscape objectives, but results in a breach of the height control at the rear. It is considered that providing an appropriately articulated roof form presentation to the street is a sufficient environmental planning ground to support the variation of the height control to the rear of the front row of dwellings, given the slope of the site.

The second breach occurs due to the lift overruns, which have been minimised in height as much as possible. The provision of individual lifts within the development is seen as providing a significant benefit to the future residents and the community in general, allowing the residents to “age in place”, which is a priority in the design of residential development given the aging population. Given the location of the lift overruns makes them barely discernible from the streetscape and given the significant benefit of the lift overruns it is considered that there are sufficient environmental planning grounds to support the variation in the height control related to them.

PUBLIC INTEREST

There are no public interest matters that would prevent the variation of the height control in this instance given the compelling environmental planning grounds for the variation and the compliance with the objectives of the control and the R3 Medium Density Residential zone.

CONCURRENCE REQUIREMENTS

Matters of State or Regional Significance

There are no matters of State or Regional significance that would prevent the appropriate flexible implementation of the height control in this instance.

Public Benefit of Maintaining the Control

There is no public benefit in maintaining the control strictly in this circumstance. The breach of the control would actually result in the public benefits of a better streetscape presentation than a compliant development and the private and public benefit of allowing future residents to “age in place”.